

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





74-1550

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IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

NO. 74-1550

THE UNITED STATES OF AMERICA,  
Plaintiff-Appellee,  
-against-  
CARMINE TRAMUNTI, et al.,  
Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

DEFENDANTS-APPELLANTS' JOINT APPENDIX  
Vol. S(1)--Pages 1 to 115

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mhd

2 UNITED STATES OF AMERICA

3 vs

73 Cr. 1099

4 CARMINE TRAMUNTI, et al.,

6 New York, N.Y.

7 January 9, 1974 - 1 a.m.

8 PRESENT:

9 FOR THE GOVERNMENT:

10 WALTER M. PHILLIPS, JR., Esq.

11 THOMAS FORTUIN, Esq.

12 FOR THE DEFENDANTS

13 ROBERT L. ELLIS, Esq.

14 FRANK A. LOPEZ, Esq.

15 THEODORE ROSENBERG, Esq.

16 GILBERT EPSTEIN, Esq.

17 JOHN CURLEY, Esq.

18 R. ALAN STOTSENBERG, Esq.

19 - - -

20 THE COURT: I think the record should reflect  
21 that this morning when I left there was six inches of snow  
22 on the ground, and more is falling. I believe that those  
23 who made it in have done so, I am sure, with a great deal  
24 of difficulty.

25 I understand that the government has two  
witnesses, is that correct, Mr. Phillips?

MR. PHILLIPS: Yes, sir.

THE COURT: You told my clerk that one of them

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1  
2 is somewhere on a major artery in a disabled car --

3 MR. PHILLIPS: That is correct.

4 THE COURT: And the other is stuck in the snow

5 MR. PHILLIPS: I do not know whether he is  
6 stuck in the snow; the telephone message I received is  
7 that he is delayed because of the storm, so we are still  
8 awaiting him. They do know where to go.

9 MR. ELLIS: Your Honor, perhaps this is a con-  
10 venient delay because it will give us an opportunity to  
11 deal with some other problems.

12 My name is Robert Ellis. I represent Mamone.  
13 Two days ago a potential conflict came to my attention.  
14 In the course of interviewing Mamone I was apprised of a  
15 conversation between Mamone and Barnaba which took place  
16 on Pleasant Avenue in Manhattan, approximately two years  
17 ago. The substance of this conversation was that Barnaba  
18 mistakenly believed that Mamone had been arrested or con-  
19 victed on a narcotics charge and was about to be imprison-  
20 ed on that charge. In fact, it was another Butch in this case  
21 Pugliese that Barnaba was talking about.

22 Now if Barbaba refers to Mamone in this case--  
23 I do not know that he will; I do not know what the facts  
24 are with respect to Mamone -- I will have to cross-examine  
25 to show the mistaken identity, and in the course of that



cross-examination it is likely that I will be forced to bring out the fact of Pugliese's arrest and/or conviction approximately two years ago on this charge.

I would, accordingly, move, your Honor, that Mamone be severed in this case.

MR. ROSENBERG: Your Honor, I am Theodore Rosenberg. I represent Butch Pugliese -- the other Butch that is referred to. I think that the Court could have no alternative. I would move for severance with respect to Pugliese if in the event -- this is a realistic possibility, which I feel that the Court can perhaps sever as to both or either one of them, if that is going to be a problem that is going to come up.

THE COURT: I am, of course, in complete ignorance of the facts.

MR. PHILLIPS: Your Honor, if I can put my two cents into this --

THE COURT: Sure; that is what you are here for.

MR. PHILLIPS: Today was the first time that I heard of this problem. Mr. Ellis informed me of it, and I informed him of the following: that the government does intend to make reference in its direct case to certain instances of a defendant going to jail, and one of those instances is Butch Pugliese going to jail.



1 mtd

2 Another instance is Mr. Pugliese going to jail  
3 in January of 1973 on a drunk driving charge. We had no  
4 intention of introducing evidence as to the particular  
5 charge that Mr. Pugliese went to jail for.

6 THE COURT: You mean the drunk driving charge?

7 MR. PHILLIPS: No, that was Pugliese.

8 THE COURT: Oh, I am sorry, I misheard.

9 MR. PHILLIPS: We intend to submit to your  
10 Honor a trial memorandum pertaining to certain evidentiary  
11 points that we anticipate arising during the course of the  
12 trial, and included is this particular point.

13 Basically, your Honor, the government's  
14 position is that reference to Mr. Pugliese going to jail  
15 is an essential element and part and parcel of the govern-  
16 ment's case because, for example, when he went to jail he  
17 turned over his narcotics business to certain other indi-  
18 viduals, and that was the reason that these particular  
19 individuals were given this business.

20 We submit that there is law on the question of  
21 whether reference may be made to other convictions or other  
22 crimes being committed, or the fact that the defendant went  
23 to jail during the course of the conspiracy, if it is  
24 germane and relevant to the government's proof, and we  
25 intend to submit that. So far as the question of whether

1  
2 a conversation between -- whether there will be cross-  
3 examination, as I assume Mr. Ellis intends to do, of  
4 Mr. Barnaba pertaining to a conversation that he allegedly  
5 had with Mr. Mamone and the confusion that might have  
6 existed in Mr. Barnaba's mind as to whether he had been  
7 arrested on a narcotics charge, we would submit either of  
8 two alternatives exist: one, that the jury be instructed  
9 to ignore or to discount any assertion that Pugliese had  
10 been arrested for a narcotics charge, or, in the alternative,  
11 a hearing outside the presence of the jury be conducted to  
12 ascertain whether there was in fact a misidentification by  
13 Mr. Barnaba of Mr. Mamone. That is just my initial think-  
14 ing on the subject.

15 MR. ELLIS: Your Honor, obviously this mis-  
16 identification, if it in fact exists, goes to the heart of  
17 Barnaba's credibility in respect to anything that he might  
18 say about Mamone could not be conducted outside the  
19 presence of the jury, because a jury is going to have to  
20 pass on his credibility. There

21 THE COURT: There is no question about that.  
22 I do not think Mr. Phillips is suggesting that at all.

23 MR. ROSENBERG: Your Honor, before you rule --

24 THE COURT: I am not going to rule; I will listen  
25 to you.



1  
2 MR. ROSENBERG: Well, it is obvious that for  
3 his proof it is important for him to bring out testimony  
4 in this case that a Butch Pugliese, my client, had gone  
5 to jail, and it puts his character in evidence, and that  
6 is important for him, to prove his case as he sees fit,  
7 but to have his character brought into evidence without  
8 him taking the stand I think would be, to say the least,  
9 prejudicial.

10 THE COURT: I am not going to make a ruling  
11 right now for the simple reason that I do not believe in  
12 lightning justice. I like to do research, and this is an  
13 area that does not lend itself to be easily answered.  
14 This is not something that you run across every day. I  
15 think everyone in the courtroom will agree to that.

16 #2  
17 MR. ELLIS: Your Honor, if it will be helpful  
18 to the Court, we would be prepared to submit authorities  
19 to the effect that a conflict amongst the defendants is a  
20 ground for severance. There are plenty of cases on that.

21 THE COURT: Yes, I know some of them, but if  
22 you would like to bring them to my mind, I would appreciate  
23 it.

24 MR. ELLIS: Your Honor, I understand you have  
25 denied our motion to dismiss.

THE COURT: Yes.

1  
2 MR. ELLIS: But still being completely in the  
3 dark as to what Mamone's specific role was in this case,  
4 we are only told a few days before trial that there was  
5 a conspiracy in November of 1970 and that he was present  
6 at a single meeting where money was counted. Other than  
7 that we do not know a thing about the case.

8 (Continued on page 7.)  
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1 THE COURT: I don't know how many motions were  
2 made, but there were quite a number. To the best of  
3 my recollection, there are about four or five left without  
4 decision, including your motion in connection with a  
5 further bill of particulars for the defendant Mamone.  
6

7 There are similar motions for two other defend-  
8 ants.

9 I was going to use the time afforded this morn-  
10 ing because of the absence of our snowbound witnesses to  
11 take care of those motions.

12 MR. LOPEZ: Your Honor, digressing a bit from  
13 the subject matter that has been before the Court, on  
14 the motion to suppress, your Honor, I just want to make  
15 sure that the defendant Joseph Di Napoli has been brought  
16 to court, your Honor, and a co-conspirator but not a defend-  
17 ant, Vincent Papa, has also been brought here. We don't  
18 know.

19 Another matter comes to mind also. We will have  
20 to check on those two individuals.

21 Another matter comes to mind, and that is on or  
22 about February 3, February 4, 1972, a complaint was actu-  
23 ally filed before the United States Magistrate in this  
24 district, your Honor, and that complaint was subsequently  
25 dismissed, both as to Di Napoli and Papa.

2 It is my belief, your Honor, that the case was  
3 not presented to a federal grand jury in this district. I  
4 am not sure.

5 If Mr. Phillips will stipulate with me that a  
6 complaint was in effect, lodged and subsequently dismissed  
7 I would be pleased by that, and also his representation  
8 that the case was not submitted to a federal grand jury  
9 and that the grand jury took no action in connection with  
10 it.

11 I will accept Mr. Phillip's representation on  
12 that.

13 THE COURT: Mr. Phillips, was a complaint  
14 filed?

15 MR. PHILLIPS: Yes, there was, your Honor.

16 THE COURT: It is a matter of public record?

17 MR. PHILLIPS: Yes.

18 THE COURT: All right.

19 Was it subsequently dismissed?

20 MR. PHILLIPS: Yes.

21 THE COURT: Do you really want a stipulation  
22 further than that?

23 MR. LOPEZ: No. I accept that.

24 I have a copy of that complaint. Your Honor  
25 might find it necessary to examine the complaint and I



2 want to have those facts before your Honor.

3 THE COURT: That is my next question.

4 Who is going to get me a copy of the complaint?

5 MR. LOPEZ: I will. Also the search warrant  
6 that was subsequently issued.

7 That is correct, Mr. Phillips?

8 MR. PHILLIPS: You have a copy.

9 MR. LOPEZ: I have a copy also which I will be  
10 delighted to supply to your Honor.

11 THE COURT: You want to do it now?

12 MR. LOPEZ: Sure. You Honor will have it for  
13 the evidentiary hearing.

14 THE COURT: There are various other counsel I  
15 see in the courtroom. Since we can't go ahead right now,  
16 I don't know about you fellows, but I would assume on a  
17 cold, blustery day like today, you might like to have a cup  
18 of coffee. Let's come back around 11 o'clock and see if the  
19 witnesses are here by then.

20 Do you have anything else that you want to take  
21 care of now?

22 MR. PHILLIPS: No, your Honor.

23 (Recess.)

24 THE COURT: Mr. Lopez, I understand you have an  
25 application to adjourn this matter until two o'clock?

MR. LOPEZ: If the government joins with me and if the Court consents. I don't know.

THE COURT: Your application to adjourn until two o'clock is denied.

My application to adjourn until 2:15 is granted.

MR. LOPEZ: Fine.

THE COURT: At two o'clock I have something else to take care of.

By the way, I might as well comment on the record. Mr. Lopez has spent quite a bit of time acting as lead counsel in setting up the fundamental accommodations which we will have in Courtroom 110, for which I am most appreciative.

MR. LOPEZ: Thank you, your Honor.

THE COURT: All right. I will see you back here at 2:15.

(Recess.)



## AFTERNOON SESSION

2:15 p.m.

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THE COURT: Joseph Delvecchio?

DEFENDANT DELVECCHIO: Yes, sir.

THE COURT: Is the marshal here also?

DEFENDANT DELVECCHIO: Yes. My attorney is not present.

THE COURT: Yes, I know. That is my problem.

Marshal, I guess it would be easier for you if you brought Mr. Delvecchio back downstairs at this point, at least, until his attorney shows up.

Is that your wife, Mr. Delvecchio?

DEFENDANT DELVECCHIO: Yes, sir.

THE COURT: Why don't you see if his wife can't talk to him downstairs also. I will hold on to the writ. We will take care of it later, once his attorney shows up.

We are here for the hearing on the Di Napoli motion.

Are you ready, Mr. Phillips?

MR. PHILLIPS: We are ready, your Honor.

THE COURT: Out of the snowdrifts.

MR. PHILLIPS: Your Honor, Mr. Di Napoli made a

1 motion to suppress the evidence, as your Honor knows, and  
2 because there is no search warrant involved the government  
3 is prepared to proceed with its witnesses.  
4

5 THE COURT: All right.

6 Mr. Lopez, are you ready?

7 MR. LOPEZ: That is satisfactory, your Honor.

8 The only thing, I would like to inquire if we  
9 have the magistrate's file here or the affidavit.  
10

11 MR. FORTUIN: I spent about half an hour looking  
12 for it and it is not with the magistrate nor can I find any  
13 record of it. So we don't have the affidavit.

14 THE COURT: All right.

15 MR. PHILLIPS: You are referring to the search  
16 warrant, is that correct?

17 MR. LOPEZ: The search warrant, I think I gave  
18 your Honor a copy of it.

19 MR. PHILLIPS: The affidavit in support of the  
20 search warrant.

21 MR. LOPEZ: The affidavit in support of the search  
22 warrant?

23 MR. PHILLIPS: I think Mr. Lopez is aware that  
24 Judge Gurfain was the judicial officer that issued the  
25 search warrant rather than the magistrate, but it appears  
not to be with the magistrate's and our criminal clerk's



office does not know where it is either.

MR. LOPEZ: As far as any other portion of the magistrate's file, I think your Honor has a copy of the complaint that was issued on February 4, 1972, I think your Honor has at least a copy of the search warrant.

We don't have the affidavit.

I also understand, now that the defendant Di Napoli is present, that there is a stipulation here that both Vincent Papa and Joseph Di Napoli, Vincent Papa being a co-conspirator named in this indictment but not a defendant, were arrested as a result of the activities of February 3, 1972, and that subsequent thereto the proceedings before the United States Magistrate in this district were dismissed.

Is that correct so far?

MR. PHILLIPS: Yes.

THE COURT: I understand that that is true.

MR. LOPEZ: The only other inquiry I would like to make of the United States Attorney, your Honor, is if there were any papers filed or if there was any hearing or any proceedings of any kind with a dismissal. In other words, what I would like to learn in aid of the Court is to ascertain by what method the complaint was dismissed, whether there were any representations in writing or orally

by the United States Attorney.

I would ask your Honor to inquire of the government as to that.

THE COURT: It is my recollection that complaints are dismissed on a mere formal statement that the government does not wish to pursue the matter. I don't know if anything else was done.

Was it, Mr. Phillips?

MR. PHILLIPS: I don't know, your Honor. It is the first time that Mr. Lopez has made the request and I have not checked it.

THE COURT: Would you ask one of your associates to find out, please?

MR. PHILLIPS: Yes, your Honor.

MR. LOPEZ: All right. Thank you, your Honor. We are ready to proceed.

THE COURT: All right.

MR. PHILLIPS: Your Honor, the government calls George Reilly.

G E O R G E R E I L L Y, called as a witness by the government, having been first duly sworn, testified as follows:

MR. PHILLIPS: May I proceed, your Honor?



THE COURT: . Yes.

DIRECT EXAMINATION

BY MR. PHILLIPS:

Q Mr. Reilly, by whom are you employed at the present time?

A I am employed by the New York City Police Department.

Q In what capacity?

A I am a police officer.

Q What is your present assignment?

A I am assigned to the Unified Intelligence Division.

Q Where do you work?

A I work at 555 West 57th Street, New York City.

Q What is located there?

A That's Drug Enforcement Administration building.

Q Is that the Federal Narcotics Agency?

A That's Federal Narcotics Agency, correct.

Q What was your assignment in February of 1972?

A In February of 1972 I was an investigator with the New York Joint Task Force.

Q Can you tell us what the New York Joint Task Force is and what it is made up of?

A Yes. It is comprised of New York City, New York State and federal agents, and our job is to look into the

activities of middle and upper echelon narcotics violators.

Q How long were you assigned to the New York Joint Task Force?

A Two and a half years.

Q As of February 1972 how long had you been assigned to that post?

A Six months.

Q How long had you been a police officer as of that time?

A That time? Five years.

Q Directing your attention to February 3, 1972, were you on duty that evening?

A That is correct.

Q Where were the headquarters of the New York Joint Task Force, by the way?

A It is located at 201 Varick Street, New York City.

Q Did you have occasion to go there that evening?

A I did.

Q Did you receive some instructions?

A I did.

Q What instructions did you receive?

A I was instructed by my group supervisor to accompany Detective Spurdis to the Bronx to try to identify a John Doe in a case we were working on.



Q Who was your group supervisor that gave you those instructions?

A What was Special Agent Peter Pallatroni.

Q You mentioned a John Doe No. 3. Could you tell us what you mean by John Doe No. 3?

A Well, on September 2nd of 1971 there had been a drug transaction -

MR. LOPES: Objection, your Honor. I don't think this is pertinent to the activities of February 3rd.

THE COURT: All right.

John Doe No. 3 means that there are three people whose names were unknown.

I think we can agree on that, at least three people, right?

I don't understand why we have to go back to September---

MR. PHILLIPS: Your Honor, some background as to what occurred prior to February 3, 1972 is essential to determine whether or not there was probable cause to do what the agents did the evening of February 3rd, as to the reasons for going to where they went and doing what they did.

They were conducting, as the evidence will show, the testimony will show, they were conducting surveillance

at 1909 Bronxdale Avenue.

THE COURT: It is a strange way to get into it, asking him what John Doe No. 3 means.

MR. PHILLIPS: All right.

THE COURT: Let's see what you can come up with.

I will permit the answer. Go ahead.

Q You were about to explain to us -- it is Officer Reilly, is that correct?

A That is correct.

Q You were about to explain to us, Officer Reilly, something that occurred on September 2, 1971.

Was this information that you are about to give told to you by anybody?

A Yes. By Detective John Spurdis in a written report.

Q What exactly was communicated to you?

A That while he was drinking at the Cottage Inn Bar in the Bronx undercover he overheard a drug transaction between John Doe No. 3 and a subject of our investigation.



Q What was the name of the subject of your investigation?

A That was Frank Facchiano.

Q What was the conversation with -- is it Detective Spurdis?

A Yes.

Q What was the conversation that Detective Spurdis had overheard between Facchiano and John Doe No.

MR. LOPEZ: Objection, your Honor. In view of the fact that we have Detective Spurdis here, I think that that conversation would be received in evidence from Detective Spurdis and not from this witness. It would be hearsay in any case, and I fail to see the connection as far as Dinapoli is concerned. For those two reasons I object to this conversation. We have Spurdis here.

THE COURT: Is Spurdis going to be a witness?

MR. LOPEZ: Yes, your Honor.

MR. PHILLIPS: He is going to be a witness -- not for the government. The government intends to call two witnesses: Officer Reilly and Group Supervisor Pallatroni.

THE COURT: I will permit it. Go ahead.

A On that night Detective Spurdis observed Frank Facchiano enter the Cottage Inn Bar and speak with John

1  
2 Doe No. 3.

3 Q HAD you heard of the description of John Doe  
4 No. 3?

5 A Yes.

6 Q What was that description?

7 A A white male, about six feet tall, 185 pounds,  
8 with straight grayish hair.

9 Q And approximately what age?

10 A About 35.

11 Q Did you and Detective Spurdis then leave  
12 201 Varick Street?

13 A About 7:00 p.m. that night on February 3rd  
14 we left the office.

15 Q And where did you drive to?

16 A We first drove to around Spencer Drive.

17 Q In the Bronx?

18 A Yes.

19 Q And where did you go?

20 A We went down to the Cottage Inn.

21 Q And then where did you go?

22 A We went to the area around 1908 Bronxdale  
23 Avenue.

24 Q What time did you arrive at 1908 Bronxdale  
25 Avenue?

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1  
2 A About 8:00 o'clock.

3 Q And what was the weather like when you arrive  
4 there?

5 A It was raining very heavily.

6 Q Did you park your car?

7 A Yes.

8 Q Where did you park your car with relation to  
9 1908 Bronxdale Avenue

10 A About two houses away, on the same side of the  
11 street.

12 Q Could you describe for us the building located  
13 at 1908 Bronxdale Avenue?

14 A Well, it's a private dwelling, one family.

15 Q How many floors?

16 A There is a basement underneath the street  
17 floor, so actually it is three.

18 Q Three floors?

19 A Yes.

20 Q But it is a one family dwelling?

21 A Right.

22 Q At the time that you arrived there at 1908  
23 Bronxdale Avenue did you have any background information  
24 regarding 1908 Bronxdale Avenue?

25 A Yes, we did.

1                   Q       Would you tell us what that was?

2                   A       Joseph Dinapoli's vehicle was seen in the drive-  
3                   way at 1908 Bronxdale Avenue, a vehicle belonging to  
4                   Genevieve Patalano was seen at the Cottage Inn, and she  
5                   was the registered owner of 1908 Bronxdale Avenue.  
6

7                   Q       When to your knowledge had the automobile  
8                   registered to Genevieve Patalano been seen outside the  
9                   Cottage Inn?

10                  A       I believe it was prior to my coming to the  
11                  Task Force -- I believe it was July 1971.

12                  Q       You say you arrived there about 8:00 p.m.?

13                  A       8:00 p.m., correct.

14                  Q       What occurred after that?

15                  A       Well, nothing really happened 'til about 8:45  
16                  when a green Pontiac, a 1968 Pontiac pulled up in front  
17                  of 1908.

18                  Q       Before you go to that, before 8:45 did anybody  
19                  leave or enter 1908?

20                  A       To my recollection only one male, a male with  
21                  white hair.

22                  Q       Then what happened at 8:45?

23                  A       At 8:45 a 1968 Pontiac pulled up in front of  
24                  1908 Bronxdale Avenue, and a white male got out, had a  
25                  suitcase in his hand. He walked into 1908 Bronxdale Avenue.



1  
2 Q Could you describe that white male as you saw  
3 him then?

4 A Yes. He was about six feet, 190 pounds.

5 Q Approximately how old?

6 A Mid-30's.

7 Q And did he get out of the driver's seat or the  
8 passenger's seat?

9 A He got out of the passenger's seat.

10 Q What happened after he entered 1908 Bronxdale  
11 Avenue?

12 A The vehicle made a U-turn for a parking place  
13 on the other side of the street.

14 Q What did you do?

15 A We pulled out of our parking space and went  
16 behind the '68 Pontiac, and made a U-turn behind it.

17 MR. LOPEZ: Objection. May we have more  
18 specifically as to who pulled out? Who got out of their  
19 car? I am not sure who it was.

20 THE COURT: Well, so far all I know is that a  
21 white male, six feet tall, 190 pounds in his mid-30's --  
22 that is as much as I know.

23 MR. LOPEZ: He said, "We pulled out."

24 THE COURT: Oh, "we."

25 Q You are referring to yourself and Detective

Spurdis?

A Yes.

Q What did you and Detective Spurdis do?

A We waited until the 1968 Pontiac was parked.

Q On the other side of the street?

A On the other side of the street.

Q And he made a U-turn?

A Right. The occupant got out from the driver's side and was about in the middle of the street. We pulled abreast of his car. At that point the man who got out of the car turned around and looked into our car.

Q Did you look at him?

A Yes, we did.

Q How long did he look at you?

A About two seconds.

Q Did you recognize that individual at that time?

A Yes, I did.

Q And who did you recognize that individual to be?

A Vincent Papa.

Q After you recognized this person to be Vincent Papa, what did you do?

A I picked up the radio in the vehicle and called my group supervisor to the scene.

Q You are talking about Mr. Pallatroni?



A That is correct.

Q What did you say to Mr. Pallatront at the office?

A I said, "We have a VIP here with a suitcase. You had better get over here."

Q What did you mean by "VIP"?

A Mr. Papa owns a tire store on Crosspoint Avenue in Queens that is known as VIP Tires.

Q Was there a reason that you used that terminology rather than say to Mr. Pallatront that it was Papa?

MR. LOPEZ: Objection, your Honor. It calls for the operation of his mind, your Honor.

THE COURT: It does. I will sustain it.

Q Did Mr. Pallatront arrive thereafter?

A He did, in about five minutes.

Q And when he arrived there did you have a conversation with him?

A No, I did not. Detective Spurdis did.

Q Do you know what Detective Spurdid told him?

A He told him the circumstances that surrounded the car pulling up in front of 1908 Bronxdale Avenue.

Q Did you then continue surveillance of 1908 Bronxdale Avenue?

A We did.

Q Will you tell us what occurred after that?

A Well, about 9:00 p.m. three men got into a car and drove away.

Q Were you able to identify these men?

A No.

Q Did they later return?

A Yes, they did.

Q When did they return?

A About 9:10 -- 10 minutes later.

Q Did they then enter the house?

A Yes.

Q Did you see anybody else enter or leave the house?

A Yes. About 9:15 a male left the house, got into his car and drove away.

Q Did anybody follow this individual?

A Not immediately, no.

Q At any event, you did not?

A No.

Q And did you continue the surveillance?

A We did.

Q What did you observe after that with respect to people entering and leaving the house?

A About 9:25 two males left. They got into



1 separate vehicles and drove away. They weren't followed  
2 by anybody.

3 Q Were you able to identify them?

4 A No, sir.

5 Q What happened after that?

6 A About 9:30 Mr. Papa and Mr. Dinapoli exited  
7 the house.

8 Q Together?

9 A Yes.

10 Q What did you observe them do?

11 A I observed them walk to their vehicle.

12 Mr. Dinapoli had a suitcase in his hands.

13 Q At that time did you know that this was  
14 Mr. Dinapoli?

15 A No, sir.

16 Q And did they get into the same automobile that  
17 Mr. Papa had arrived in, driven in?

18 A They did.

19 THE COURT: The green --

20 THE WITNESS: 1968 Pontiac.

21 Q You say they had a suitcase, is that correct?

22 A That is correct.

23 Q Is that the same suitcase that you had seen the  
24 individual carry into that house?  
25

1  
2 A I can't say that to be sure.

3 Q Did it appear to be the same?

4 A Yes, it was about the same size.

5 Q And do you remember what they did with the  
6 suitcase before getting into the automobile?

7 A Yes, it was placed in the rear of the car.

8 Q Then what happened?

9 A Mr. Papa entered the car on the driver's side  
10 and Mr. Dinapoli on the passenger's side and they drove  
11 away.

12 Q Was Mr. Papa driving?

13 A Yes.

14 Q Could you describe for us how the suitcase was  
15 carried by the individual who turned out to be Dinapoli,  
16 from 1908 Bronxdale Avenue, that is, the house itself, to  
17 the automobile?

18 A Yes. It appeared to be out in front of him,  
19 in front of his body as though he was holding it with two  
20 hands.

21 MR. LOPEZ: Your Honor, I would like to know  
22 was he or wasn't he?

23 THE WITNESS: I guess he was holding it with  
24 two hands.

25 THE COURT: He guesses he was holding it with



two hands.

Q Did you then follow this automobile?

A We did.

Q And what occurred after that?

A We were instructed by our group supervisor to take them out of the area and place them under arrest.

Q Will you describe how they were placed under arrest?

A Yes. Detective Spurdis positioned our vehicle abreast of Mr. Papa's vehicle. I put my --

Q Just a minute. Detective Spurdis was driving.

A Yes.

Q And you were in the passenger's seat?

A Yes.

Q Proceed.

A I put my shield out of the window and I ordered the car to pull over to the side.

Q Who did you communicate that order to?

A I communicated it to the driver, Mr. Papa.

Q What was his reaction?

A He kept driving a few more feet, and I instructed him again.

Q Did you show him your shield?

A Yes, I did.



1 Q How many times did you show him the shield?

2 A Twice.

3 Q What did he do the second time?

4 A He pulled the car to the curb.

5 Q What did Detective Spurdis do with your car?

6 A He pulled our car up in front.

7 Q Then what happened?

8 A Mr. Papa got out of the car on the sidewalk and  
9 walked to our car.

10 Q How far away was your car?

11 A Approximately a car length.

12 Q What happened then?

13 A Placed under arrest, by me.

14 Q And what occurred after that?

15 A Detective Spurdis and Group Supervisor  
16 Pallatroni, they approached the 1968 Pontiac. Group  
17 Supervisor Pallatroni had ordered Mr. Dinapoli out of the  
18 car and was placing him under arrest.

19 Q I do not know whether you testified to this, but  
20 was it Group Supervisor Pallatroni who gave you the order to  
21 place them under arrest?

22 A Yes, it was.

23 Q Was the suitcase then removed from the auto-  
24 mobile?  
25

1  
2 A Yes, it was.

3 MR. PHILLIPS: May this be marked for identifi  
4 cation as Government's Exhibit 1?

5 (Marked Government's Exhibit 1 for identificat  
6 BY MR. PHILLIPS:

7 Q I show you Government's Exhibit 1 for identifi  
8 cation, Officer Reilly (handing). Can you tell us whether  
9 you are able to identify that?

10 A Yes, but I will have to open it.

11 Q Would you.

12 A Yes.

13 A (After examining) Yes, it has my initials on  
14 the inner flap.

15 Q That is a suitcase -- is that the same suitcase  
16 that was seized that evening in the back of the green  
17 Pontiac?

18 A That is correct.

19 Q Would you for a minute close the zipper up at t  
20 top of the suitcase.

21 (The witness complies.)

22 Q Is that similar in appearance to the suitcase  
23 that you observed being taken into 1908 Bronxdale Avenue at  
24 approximately 8:45 p.m.?

25 A Yes, it is.



1           Q       Would you come down off the stand and would you  
2                   take that suitcase and show the Court exactly the manner in  
3                   which the individual who carried it into 1908 Bronxdale  
4                   Avenue did it -- show how he carried it and the manner in  
5                   which he walked from the automobile to the house. Will you  
6                   go over there and do it.

7                   (The witness leaves the stand and walks to the  
8                   far side of the courtroom.)

9           Q       Start at the door and walk this way.

10                  (The witness demonstrates.)

11           Q       Just demonstrate the way that he walked into the  
12                   house.

13                  (The witness demonstrates.)

14           THE COURT: The record should reflect that the  
15                   witness is holding the suitcase in his right hand, walked  
16                   at a normal gait and held the suitcase down in the normal  
17                   way one would hold a suitcase.

18                   All right, officer.

19                  (Witness resumes the stand.)

20           Q       Later on that evening, Officer Reilly, or at any  
21                   time that evening for that matter, did you have occasion to  
22                   pick up the suitcase that had been taken from the back seat  
23                   of the green Pontiac?

24           A       That night?

1 Q Yes.

2 A I did not.

3 Q Is there any way that you can estimate, to your  
4 appearance, the weight of the suitcase just before it was  
5 placed back into the green Pontiac?

6 MR. LOPEZ: Objection, your Honor.

7 THE COURT: I am not even sure if I understand  
8 the question, so I guess I will sustain the objection and I  
9 suggest that you reframe it.

10 Q Officer Reilly, did you have occasion at any time  
11 after these individuals, Dinapoli and Papa, were placed  
12 under arrest, to handle the suitcase?

13 A I did.

14 Q Did you handle the suitcase with the contents  
15 in it, that were found in it?

16 A I did.

17 Q And approximately how much did it weigh, in  
18 your estimation?

19 A About 40 pounds.

20 (Mr. Phillips confers with Mr. Lopez off the  
21 record.)

22 Q Officer Reilly, would you come down here a  
23 minute again?

24 (The witness leaves the stand.)



Q Would you take this suitcase over to where you were a minute ago and demonstrate to the Court exactly how you observed the individual transport the suitcase from the house back out to the green Pontiac.

(The witness walks to the far side of the courtroom.)

Q You just told us or demonstrated what you observed when he transported it from the car to the house at approximately 8:45. I want you to demonstrate what you observed on how he transported it from the house to the car at 9:30.

MR. LOPEZ: I'm going to object to this. We already had this, your honor.

THE COURT: Well, we have already had -- what I think Mr. Phillips wants to do is to make sure of what was said before.

All right, go ahead.

(The witness demonstrates.)

MR. PHILLIPS: May the record reflect that the suitcase was carried in front of Officer Reilly, and was carried with both hands, and also may the record reflect that the gait used by Officer Reilly was brisker than the gait, that is, he walked at a faster pace than on the previous demonstration.

THE COURT: The record will so reflect.

(The witness resumes the stand.)

Q Officer, in your opinion as you observed this suitcase being transported or -- withdrawn.

Was the suitcase transported in each instance, that is, when it was taken from the car to the house at 8:45 and then taken from the house to the car at 9:30, was it taken by the same person?

A That was at 9:30, correct.

Q At 9:30?

A Yes, it was, by the same person.

(Continued on page 36.)

#1pm

foli



2 Q 9:30. I'm sorry.

3 A Yes, it was by the same person.

4 Q And that person turned out to be Mr. Di Napoli?

5 A Correct.

6 Q In your opinion, as you observed Mr. Di Napoli  
7 transport or carry the suitcase from the house to the car,  
8 in your opinion, did the suitcase appear to be any heavier  
9 than when he transported it from the car to the house?

10 A Yes, it did.

11 MR. LOPEZ: Objection, your Honor.

12 MR. PHILLIPS: Your Honor, I think that in addi-  
13 tion to the demonstration that it is relevant what the  
14 officer's opinion itself was or what was going on subjectively  
15 in his mind inasmuch as he was the one who made the arrest.

16 MR. ROSENBERG: Your Honor, I believe I have  
17 standing in this case and in response to that, as I under-  
18 stand the testimony up until now, he was instructed.

19 So it is not the operation of his mind with re-  
20 spect to the weight at this juncture. He was instructed  
21 by somebody else who was not privy or at least we have not  
22 heard that he was present with respect to the weight of  
23 the suitcase.

24 So he was told to stop and make an arrest. So  
25 at this juncture that is immaterial now.

1  
2 THE COURT: I don't see any reason to change  
3 my ruling.

4 Q Officer Reilly, what did you communicate to Group  
5 Supervisor Pallatroni after you saw Papa and Di Napoli return  
6 to the automobile at 9:30?

7 A We just instructed him of the fact that they had  
8 returned to the vehicle and he instructed us to follow them.

9 Q Did you say anything else?

10 A Just the fact that the suitcase was back in the  
11 car.

12 Q Did you describe anything about the suitcase to  
13 him?

14 A I said, "It appears to be heavy."

15 Q What did you base that on?

16 A The fact that Mr. Di Napoli was carrying it with  
17 two hands.

18 MR. PHILLIPS: May I have a moment, your Honor?

19 THE COURT: Sure.

20 (Pause.)

21 Q Officer Reilly, when Mr. Di Napoli first went into  
22 the house with the suitcase at 8:45 did he ring the doorbell  
23 or knock on the door?

24 A No, sir.

25 Q When Mr. Papa went into the house did he ring the



doorbell or knock on the door?

A No, he did not.

Q Do you know an individual by the name of Joseph DiBonedatto?

A Yes, I do.

Q To your knowledge, did he have any connection with the Cottage Inn?

A Yes, he did. He owned it.

Q To your knowledge, prior to February 3, 1972, had he ever been arrested?

A Yes, he had.

MR. LOPEZ: Objection, your Honor, immaterial.

THE COURT: It is already in. I will let it stand.

Q Do you know where he had been arrested?

A Yes. On East Fordham Road.

Q Is that in the Bronx?

A Yes, it is.

Q Had he been observed at any time prior to his arrest either leaving or entering 1908 Bronxdale Avenue?

A Yes. He was observed leaving.

Q On the same night that he was arrested?

A Correct.

Q Do you know how soon or before February 3, 1972 that arrest took place?

A I believe it was October of 1971.

Q Of 1971?

A Right.

Q Do you know what he was arrested for?

A Yes.

Q What?

A He was arrested for grand larceny auto, criminal possession of stolen property and unauthorized use of a vehicle.

MR. PHILLIPS: I have nothing further at this time.

MR. LOPEZ: May I inquire, your Honor?

THE COURT: Mr. Lopez, let me finish my notes.

MR. LOPEZ: Oh, sure.

(Pause.)

THE COURT: All right, Mr. Lopez.

CROSS-EXAMINATION

BY MR. LOPEZ:

Q Officer Reilly, you are a police officer at the present time, isn't that correct?

A That is correct.

Q Officer Reilly, in connection with this case of



February 3, 1972 and the seizure that was made on that day, have you filed any reports in connection with this case?

A I personally?

Q Yes. You personally.

A I don't believe so, Mr. Lopez.

Q The reason for that is because Detective Spurdis was the arresting officer, isn't that correct, he filed the reports?

A That is correct.

Q And you were under Detective Spurdis, isn't that correct?

A We were partners.

Q You were partners, but you were his junior, is that correct?

A Well, I have less time on the job than he does, yes.

Q Officer Reilly, Peter Pallatroni, he is a federal officer, isn't that correct?

A That is correct.

Q He was a group supervisor, you told us, in the Joint Task Force?

A That is correct.

Q And he assigned you with Detective Spurdis, is that correct?

2 A Right.

3 Q During these events Detective Spardis had been  
4 with the Joint Task Force longer than you had been, is that  
5 correct?

6 A About one month longer.

7 Q You told us that prior to February 3, 1972 you  
8 had received some information in connection with a John Doe  
9 No. 3, is that correct?

10 A Correct.

11 Q When was that exactly?

12 A I believe it was September 3, 1971.

13 Q What was that, about five months before?

14 A Correct, five months before.

15 Q That was the information that you had received,  
16 five months previous to February 3, 1972 you had received  
17 some information in connection with the Cottage Inn, is that  
18 correct?

19 A Correct.

20 Q And you told us that this information came to  
21 you through Detective Spurdis, is that right?

22 A That is correct.

23 Q By the way, Officer Reilly, have you testified  
24 in any grand jury in connection with the seizure of Febru-  
25 ary 3, 1972?



1 A I have.

2 Q Which grand jury was that?

3 A That was the special state prosecutor's grand jury.

4 MR. LOPEZ: Your Honor, are the minutes to that  
5 grand jury available to the United States Attorney?

6 THE COURT: I have no idea.

7 MR. PHILLIPS: No, your Honor.

8 THE COURT: They are not.

9 MR. LOPEZ: Can they be made available?

10 MR. PHILLIPS: I don't see any way they can be,  
11 your Honor. I don't see any relevancy to them either.

12 THE WITNESS: They didn't ask me any questions,  
13 by the way.

14 Q They didn't ask you any questions?

15 A No, they did not.

16 Q Did you refuse to sign a waiver of immunity, is  
17 that it?

18 A I signed it.

19 Q You signed a waiver of immunity and they didn't  
20 ask you any questions?

21 A Correct.

22 Q But you did answer questions previous to going  
23 into the grand jury?

24 A Yes.

Q Mr. Cohen, Joel Cohen, asked you questions in connection with this case, is that right?

A That is correct.

Q Then, of course, after you signed the waiver they didn't invite you to testify, is that right?

A I guess not.

Q Outside of that special grand jury, did you ever testify before any other grand jury?

A No.

Q So that your recollection today as to what happened on February 3, 1972 is not based on any written memorandum that you yourself prepared, is that correct?

A That is correct.

Q You have spoken with Assistant United States Attorneys in connection with this case, is that correct?

A I have, yes.

Q Mr. Phillips is one of them?

A Yes.

Q Did you speak with any other Assistant United States Attorneys?

A Yes, but I don't know their names.

Q Many?

A That gentleman sitting there with Mr. Phillips and another gentleman.



THE COURT: All right. Let the record reflect that that is Mr. Fortuin.

And another gentleman?

THE WITNESS: Yes.

THE COURT: Not here?

THE WITNESS: There he is. I'm sorry.

MR. PHILLIPS: Thomas Engel, your Honor.

BY MR. LOPEZ:

Q Here again you were not discussing this case with them through any written memoranda, but your own recollection, is that correct?

A Correct.

Q So that you had information related to you as to some event at the Cottage Inn on September 2, 1971, is that correct?

A Right.

Q This is something that Spurdis, Detective Spurdis, had experienced, is that correct?

A Right.

Q This is the first time you ever went to the area of 1908 Bronxdale Avenue in the Bronx?

A No.

Q Had you been there before?

A Yes.

Q You described the house. It is a one-family house,  
is that correct?

A I believe I did, yes.

Q Have you ever been in 1908 Bronxdale Avenue?

A I have.

Q Was this after February 3, 1972 or before?

A It was about 1:00 a.m. in the morning on February  
4.

Q In other words, after the seizure and arrest,  
isn't that correct?

A That is correct.

Q How many times previous to February 3, 1972 had  
you been in the area of 1908 Bronxdale Avenue?

A Probably at least 20.

Q Did you make any reports as to those surveillances?

A I don't recall, Mr. Lopez.

Q You don't recall?

A I don't.

Q Isn't it a fact that Detective Spurdia was the  
one that was filing these reports and preparing them?

A He did some of them. I don't know if I did them  
or I didn't do them.

Q In any event, as far as those prior surveillances  
prior to February 3, 1972, there were no arrests made



emanating out of 1908 Bronxdale Avenue, is that correct?

A Prior to February 3rd?

Q Yes.

During your surveillances did you ever effect an arrest yourself?

A Yes.

Q Who did you arrest prior to February 3, 1972?

A I arrested Joseph Di Benedetto.

Q Of the Cottage Inn?

A Correct.

Q Did Joseph Di Benedetto live at 1908 Bronxdale Avenue?

A That's the address he gave me when I arrested him.

Q Right.

Who else did you say was living at 1908 Bronxdale Avenue besides Joseph DiBenedetto?

A I believe I said Genevieve Patalano.

Q So there were two families living there, is that correct?

A No, that is not correct.

Q Joseph Di Benedetto is related to Patalano?

A Joseph Di Benedetto did not live at 1908 Bronxdale Avenue. That is the address he gave me.

Q And you verified that, is that correct?

1  
2 A I did.

3 Q And your testimony is there was no other family  
4 but the Patalano family living there at the time?

5 A That is correct.

6 Q February 3, 1972?

7 A That is correct.

8 Q With the information which you had received on  
9 September 2, 1971, on February 3, 1972, you went with De-  
10 tective Spurdis to this area, is that correct?

11 A That's correct.

12 Q Was it at night time that you got there?

13 A Yes.

14 Q It was around eight o'clock?

15 A Yes.

16 Q Was it very dark?

17 A Yes.

18 Q Was it raining?

19 A Yes, it was.

20 Q Was it raining very, very hard?

21 A Yes, it was.

22 Q Previous to February 3, 1972 had you ever seen  
23 Vincent Papa, previous to February 3, 1972?

24 A Not in person, no.

25 Q Not in person, just by photograph, is that correct?



1  
2 A Correct.

3 Q You said that some time previous, in July 1971,  
4 you had seen at 1908 Bronxdale Avenue an automobile parked  
5 registered in the name of Genovieve Patalano, is that cor-  
6 rect?

7 A I didn't say I saw it, no. I wasn't in the Task  
8 Force then.

9 Q So you didn't even see that?

10 A No.

11 Q Someone else told you this?

12 A Right.

13 Q Just like the event in September 1971, someone  
14 else told you this?

15 A Correct.

16 Q And the same thing happened as far as the vehicle  
17 of Joseph Di Napoli is concerned? You yourself didn't see  
18 any vehicle of Joseph Di Napoli prior to February 3, 1972  
19 at 1908 Bronxdale Avenue, did you?

20 A I don't believe so.

21 Q So on February 3, 1972 at about 8:00 p.m. you  
22 commenced a surveillance of 1908 Bronxdale Avenue?

23 A Correct.

24 Q Were you in a car at the time, while you were  
25 making surveillance?

2 A Correct.

3 Q Were you in civilian clothes?

4 A Yes.

5 Q Was Spurdie in civilian clothes?

6 A Yes.

7 Q Was he sitting next to you?

8 A Yes.

9 Q Were you on the passenger side?

10 A Yes.

11 Q And he on the driver side?

12 A Yes.

13 Q Was the car parked?

14 A Yes.

15 Q Was the driver's side parked closer to the side-  
16 walk?

17 A No, sir.

18 Q The passenger side?

19 A Always, yes.

20 Q You think something is funny, Officer Reilly?

21 MR. PHILLIPS: Objection, your Honor.

22 MR. LOPEZ: I thought there was something funny.

23 Q Was the motor going while you had this surveil-  
24 lance on?

25 A Yes.



Q Were the windshield wipers going?

A Yes.

Q You said that around 8:45 you saw a 1968 green Pontiac drive up?

A Yes.

Q Do you know who this car was registered to?

A It was a dealer plate.

Q Did you check it then?

A Yes.

Q And you found that the car was a lawful car, it wasn't a stolen car or anything of the sort, is that correct?

A Right.

Q Then you described to us the events, that you saw two men get out of that green Pontiac, is that correct?

A Correct.

Q Did you recognize Vincent Papa at that time?

A Yes, I did.

Q How many feet away from you was he when you recognized him?

A Five.

Q And you recognized him from a photograph you had previously seen, is that correct?

A Yes.

Q You had never seen him in person, is that right?

A That's right.

Q And the person that he was with, you didn't know him, did you?

A That's correct.

Q So you didn't know that was Joseph Di Napoli, is that correct?

A That's correct.

Q Some time later, around 9:25, 9:30 at night, two men came out?

A Correct.

Q Is that right?

A Correct.

Q You recognized one as Vincent Papa?

A That's correct.

Q Would you say that the man that you saw coming out with Vincent Papa at the time was the same individual that had gone earlier into the house with Vincent Papa?

A I would say yes.

Q But you are not sure?

A No. I am sure.

Q You are sure?

A Yes.

Q Did you know the color of the green suitcase



at the time you first saw the unidentified male at the time go into the house with it?

A It appeared to be light in color. But what color it was, I couldn't say.

Q In other words, you didn't know if it was green or not?

A That's correct.

Q He was carrying it at his side, is that right?

A That's right.

Q Where was the car, the Papa car, parked in relation to the 1908 Bronxdale Avenue address? Where did he park it the first time he arrived?

A He stopped in the street. He didn't park it.

Q Was the car eventually parked before he went into the house?

A Yes, it was eventually parked.

Q Where was it parked?

A Directly across the street from 1902 Bronxdale Avenue.

Q About how many feet was that?

A It's a pretty wide street. It's a four lane street.

Q Then they came out, is that correct, these two individuals?

A Yes.

Q Papa and the person who subsequently turned out to be Di Napoli, is that right?

A That's right.

Q And you say that by the manner in which Di Napoli was carrying the suitcase it was your feeling that it was heavier, is that right?

A Yes, that was my feeling.

Q When Papa and Di Napoli went into the house did you call Pallatroni?

A Yes, I did.

Q Do you know if Spurdie spoke with Pallatroni at that time?

A Not on the radio, no.

Q In other words, Spurdie spoke with Pallatroni when he arrived on the scene as a result of your call?

A That's correct.

Q As a result of your call, let me hear exactly what you told Pallatroni the first time. What did you tell him the first time?

A I said, "Pete, you better get over here. We got VIP here with a suitcase."

Q That's the whole thing, is that correct?

A Yes.



Q How long did it take for Mr. Pallatroni to come over?

A About five to ten minutes, I guess, tops.

Q When he came over did he come over with anybody else?

A Yes, he did.

Who did he come over with?

A Special Agent James Reed.

Q So that now at the scene at 1908 Bronxdale Avenue or in that immediate area outside there were four law enforcement officers, two state or city and two federal officers, is that correct?

A That's correct.

Q Mr. Reed is also a federal officer, is that correct?

A Yes, he is.

Q Like Federal Officer Pallatroni?

A That's correct.

Q It was Spurdis who spoke with Pallatroni, is that correct?

A That's correct.

Q Do you know if Officer Pallatroni and Reed remained in the area?

A Yes, they did.

2 Q Did they go to a car?

3 A Yes, they did.

4 Q And that was a different car from your own, is that  
5 right?

6 A Yes, it was.

7 Q Did you lose sight of them?

8 A Yes, while they were parked we did lose sight of  
9 them.

10 Q But there was radio communication between your  
11 car and Officer Pallatroni's car?

12 A That's correct.

13 Q And you were in charge of handling the radio  
14 communication between yourself and Officer Pallatroni, is  
15 that correct?

16 A Yes, I was in charge of that.

17 Q By the way, Officer, were you armed?

18 A Yes, I was.

19 Q On February 3, 1972?

20 A I was.

21 Q What kind of a gun did you have?

22 A A .38 calibre Smith & Wesson Detective's Special,  
23 Chief's Special.

24 Q Do you have that same type of gun now?

25 A Yes, I do.



Q Can I see it?

A You can see it.

THE COURT: Must we?

Q I want to know how you cock that gun.

Do you need two hands to cock that type of a weapon?

A No, you don't.

Q You can cock it with one hand, is that correct?

A That's correct.

Q In other words, don't you have to hold it with one hand and cock it with the other?

A No, you don't.

Q You can cock it with one hand, is that correct?

A Yes, correct.

Q When the two individuals left the house they went straight to the green Pontiac, is that correct?

A That's correct.

Q How many doors did this green Pontiac have?

A Two.

Q You told us, I believe, Officer, that the green suitcase, Government's Exhibit 1 for identification, was put in the back seat, is that correct?

A Yes.

Q Do you know to which side of the car Papa went, driver or passenger?

A Went to the driver's side.

Q Which side did Di Napoli go to?

A Went to the passenger's side.

Q Was that the closest side facing the house, the passenger side of the vehicle?

A No. The operator's side was the closest side facing the house. That's the driver's side.

Q The driver's side?

A The driver's side.

Q Have you ever carried a suitcase weighing approximately 40 pounds?

A I don't believe so.

Q Have you ever made a trip some place and carried suitcases?

A Sea bags, but no suitcases.

Q You were in the Navy, is that it?

A No. I was in the Marine Corps.

Q But you have never really carried a suitcase weighing 40 pounds, is that correct?

A I don't believe so.

Q Could you tell us if a suitcase like you estimated had 40 pounds is heavier to carry from the side or holding



it up in front of you?

Could you estimate in which way it would be easier to carry, whether at the side or holding it in front with two hands?

Could you tell us that from your experience?

A I guess holding it with two hands would be a lot easier, wouldn't it?

Q Holding it up, is that correct, than holding it down at your side?

A I don't believe anybody ever said it was held straight out.

Q It wasn't held straight out?

A No, it wasn't.

Q It was sort of held out like when you put a valise in the back of a car? Is that the way it was held, to give it leverage so it could go into a back seat? Is that how it was held?

A I suppose you could say that.

Q Officer Reilly, you followed the Papa-Di Napoli car for a period of time, is that correct?

A Yes.

Q Which was the first car that was following the Papa-Di Napoli car?

A At first it was Agent Pallatroni and Reed.

1  
2 Q They got lost, right?

3 A No. They told us to go in behind them.

4 Q And they remained behind you, is that correct?

5 A That's correct.

6 Q So that you arrived first on the scene, is that  
7 correct?

8 A Correct, right.

9 THE COURT: On what scene?

10 MR. LOPEZ: On the scene of the search.

11 THE COURT: All right.

12 Q Do you recall where the car was finally brought  
13 to a halt?

14 A Yes. East Tremont and Castlehill Avenue in the  
15 Bronx..

16 Q It was Spurdis who placed his car in front of the  
17 Papa-Di Napoli vehicle, is that correct?

18 A That's correct.

19 Q When you came out of the car did you have your  
20 gun?

21 A Did I have it out?

22 Q In your hand.

23 A Yes, I did.

24 Q You had your gun, is that right?

25 A Yes, I did.



Q In what hand did you have your gun?

A My left hand.

Q Where did you have your badge at that time?

A In my right hand.

Q And it was raining?

A Yes, it was.

Q And it was dark at the time?

A Pretty dark, yes.

Q How hard would you say it was raining?

A Very, very hard.

Q You had the windows to the car closed, is that correct?

A Not when I was pulling them over, I didn't.

Q You opened the windows?

A Yes, I did.

Q The Papa car had their windows closed? It was pouring rain you told us.

A Yes, he did have it closed.

Q In other words, when Spurdie pulled his car aside the Papa car, what was the distance between you and Papa?

A An arm's length.

Q And it was a few feet later when Papa finally stopped the car, is that correct?

A Correct.

Q You came out of the passenger seat, is that correct?

A That's correct.

Q And Spurdis came out of the driver's seat?

A Correct.

Q How many people were in the Papa automobile at this time?

A Two.

Q Di Napoli remained in the car?

A Yes, he did.

Q It was Papa alone that got out, is that correct?

A That's right.

Q And as soon as he got out you placed him under arrest, is that right?

A About five seconds later, I guess.

Q So you had a gun on him and you placed him under arrest?

A I didn't put the gun on him. I had it in my hand.

Q You had it to your side, is that correct?

A Yes.

Q Was Di Napoli told to remain in the car?

A I have no knowledge of what the two officers did with the car in the rear. I was worried about Vincent Papa



Q What was Spurdis doing?

A Spurdis took the suitcase out of the back seat.

Q At this point, once you arrested Papa, where was Spurdis?

A He was next to me until I handcuffed Papa.

Q He was right next to you, is that correct?

A Correct.

Q And then you secured Papa?

A Correct.

Q Was Pallatroni on the scene at that time?

A Yes, he was.

Q He had arrived?

A Yes.

Q And he got out of the car, his car?

A Yes, he did.

Q Did Reed get out of his car also?

A Yes, he did.

Q Was Di Napoli still in the car?

A Yes, he was at that point.

Q Who went over to Di Napoli and took Di Napoli out of the car, if you remember?

A Special Agent Pallatroni.

Q Pallatroni got him out?

A Yes.

Q Was he also placed under arrest at that time?

A Yes, he was.

Q And was he secured?

A I didn't see him being secured. I couldn't say for a fact.

Q In other words, at this time you were with Papa, isn't that correct?

A That's correct.

Q So you don't know what was happening as far as Di Napoli is concerned, is that correct?

A I could see Special Agent Pallatroni had him on St. Mary -- St. Raymond's Cemetery wall. He was searching him.

Q Where was Spurdis at this time?

A Spurdis had left me and had walked back to the 1968 Pontiac.

Q So that while Papa had been secured and Di Napoli was being secured or just about secured Spurdis went back to the 1968 Pontiac, is that correct?

A That's correct.

Q And he effected a search of the Pontiac?

A He did.

Q He took out this green valise from the Pontiac?

A He did.



Q Did he open up the valise in your presence?

A It was open when I turned to look at it.

Q Who was there with Spurdis?

A Pallatroni.

Q They both were there?

A Yes.

Q And they had a conversation, is that correct?

A I don't recall if they had a conversation.

Q Did you have a conversation with Spurdis in connection with halting the Papa-Di Napoli vehicle?

If you remember.

A No.

Q You don't remember.

In other words, both of you were remaining quiet while you were approaching the Di Napoli-Papa vehicle, is that correct, you weren't saying anything to each other?

A Probably not. We knew what we had to do.

Q You told me you arrested Papa.

A Right.

Q What did you arrest him for?

A Conspiracy to violate the Federal Narcotics Laws.

Q Did you find any narcotics in the car?

A Did not.

Q Did you find any narcotics on Papa?

1  
2 A No.

3 Q Was that charge subsequently dismissed?

4 A I don't think it was ever prosecuted.

5 Q It was never prosecuted, is that correct?

6 A That's correct.

7 Q In other words, you arrested Papa even without  
8 knowing what was in the suitcase, isn't that correct?

9 MR. PHILLIPS: Objection, your Honor. He is  
10 asking for a conclusion.

11 THE COURT: I will permit it.

12 At the time you arrested Papa did you know what  
13 was in the suitcase?

14 THE WITNESS: I did not.

15 THE COURT: All right.

16 Q But as you got out of the car your immediate inten  
17 was to place Papa and Di Napoli under arrest?

18 A True, correct.

19 Q And then to make a search?

20 A Correct.

21 Q Of that valise, is that correct?

22 A Correct.

23 Q That was your intent?

24 A Correct.

25 Q In other words, there was no vehicle infraction



involved here of any kind, is that correct?

A No.

Q As a matter of fact, you never even made an attempt to check the registration of the vehicle or the driver's license or anything like that, your intent was to place them under arrest, period?

A I did make an attempt to check the driver's license and Mr. Papa wasn't in possession of one.

Q But there was no vehicle infraction charged against either one of them, is that correct?

A That's correct.

Q Who signed the magistrate's complaint in this case?

A Detective Spurdis.

Q In other words, he took credit for this arrest, in your jargon or in your terminology, he was taking credit for this arrest?

A You wouldn't call it credit.

Q Whatever it was. In other words, he was the arresting officer here?

A Right.

Q In other words, it wasn't Officer Pallatroni who was taking the arrest, it was Spurdis, is that right?

A I believe that's true, yes.

Q As a matter of fact, did you have anything to do with a subsequent application for a search warrant in connection with the premises at 1908 Bronxdale Avenue?

A Did I personally?

Q Yes.

A I did not.

Q Spurdis did?

A Yes, he did.

Q Did he obtain a search warrant?

A He did.

Q And did you go later to the premises at 1908 Bronxdale Avenue?

A Yes.

Q And did you effect a search in connection with other officers of 1908 Bronxdale Avenue?

A Correct.

Q Did you find any contraband?

A No.

Q Did you find any instrumentalities or fruits of any crime?

A No.

MR. LOPEZ: Your Honor, at this time I think that I have given your Honor --

THE COURT: You want those?



MR. LOPEZ: Yes, your Honor, if I may.

THE COURT: Have you had them marked?

MR. LOPEZ: I haven't had them marked. That is what I wanted to do at this time. I really don't need them.

Your Honor, at this time may I have marked Defendant's Exhibit A, if it please your Honor, the complaint filed before the United States Magistrate in the Southern District of New York.

THE COURT: Yes. That is a copy of the complaint?

MR. LOPEZ: That is a copy of it.

If there is no objection --

MR. PHILLIPS: No, there is no objection, your Honor.

THE COURT: It won't matter.

MR. LOPEZ: I also have a copy of a search warrant which was obtained and referred to in the testimony.

I would like to have that marked Defendant's Exhibit B if there is no objection by the government.

MR. PHILLIPS: There is no objection.

THE COURT: All right. Both will be received.

(Defendant's Exhibits A and B received in evidence.)

MR. LOPEZ: Your Honor, I have no questions

of this officer at this time.

## CROSS-EXAMINATION

BY MR. ROSENBERG:

Q Sir, when--

MR. PHILLIPS: Your Honor --

THE COURT: Wait a second.

This looks like a double-teaming operation.

Mr. Rosenberg, exactly where do you come in in connection with the Di Napoli application?

MR. ROSENBERG: If this evidence were to be admitted into evidence because of the theory of the conspiracy it would naturally come in as against my client also. So I feel that based upon that I have standing in this case.

MR. PHILLIPS: No, your Honor.

Mr. Pugliese has never alleged a proprietary interest in the evidence or the material that was seized, he has never established or shown a proprietary interest in the automobile, he was not arrested that night.

The law is clear that he does not have standing to attack the validity of this search.

I refer your Honor to the case of United States v. Brown, among others, a Supreme Court case. Footnote 4 of that case discusses the current law on standing, I



believe.

THE COURT: As you well can imagine, footnote 4 is burned into my memory.

MR. PHILLIPS: Essentially, your Honor, if a defendant neither has a proprietary interest nor a possessory interest in either the items that are seized or the place from which they are seized he does not have standing to attack the search.

THE COURT: Let me hear from Mr. Rosenberg.

MR. ROSENBERG: Your Honor, if evidence comes in under a theory of a conspiracy then that evidence is admitted as against each and every defendant, it is certainly going to be used as a circumstance against my client, as a result of which I submit I do have standing in this case.

THE COURT: I don't understand how you do get it. I think it might be simpler, Mr. Rosenberg, if you talk to Mr. Lopez and suggest a line of questioning that you want to pursue and let him pursue it. It would make for a much more orderly proceeding.

I will tell you what I'm going to do. We are going to take a ten-minute break and let you talk to Mr. Lopez and see if he can't handle the questions that you might suggest.

1.                   jh:mg 36                   Reilly-cross                   71  
2.                   MR. ROSENBERG: I will do as the Court sug-  
3.                   gests, but is the Court ruling that I do not have stand-  
4.                   ing and therefore I cannot cross-examine?

5.                   THE COURT: As of this minute, yes.

6.                   We will take a ten-minute recess.

7.                   (Recess.)

8.                   (In the robing room; Mr. Curran, Mr. Phillips  
9.                   and Mr. Gallina present.)

10.                  THE COURT: I tried to get this thing handled  
11.                  at two o'clock. I am not mentioning that other than to  
12.                  say what I was trying to do.

13.                  The record should reflect that today is a semi-  
14.                  blizzard and it is just impossible to ask people to show  
15.                  up on time. Anybody who even makes it close is doing  
16.                  well.

17.                  MR. GALLINA: Your Honor --

18.                  THE COURT: Is there going to be a disposition  
19.                  as far as Delvecchio is concerned?

20.                  MR. GALLINA: As your Honor knows, in all these  
21.                  situations it is a process of ralking, cajoling and evalu-  
22.                  ating everything.

23.                  My client does want to plead. When he informed  
24.                  the co-defendants that he was going to plead to the indict-  
25.                  ment, a number of other attorneys were present, I guess,



1 at the time in West Street, and they immediately said  
2 that if he pleads they are going to call him as a wit-  
3 ness.  
4

5 He came back to me with whether they could call  
6 him as a witness.

7 I said, "Of course they can, they can make you  
8 admit your pleas to all these counts," et cetera, et cet-  
9 era.

10 That started the ball rolling, of course, and  
11 my client is in a terrible turmoil concerning whether he  
12 is going to plead or not.

13 I have not been able to speak to the other at-  
14 torneys to determine whether or not they really, truly  
15 would use such a tactic to keep him from pleading.

16 Your Honor, can we go off the record a moment?

17 (Discussion off the record.)

18 THE COURT: There has been a discussion off  
19 the record which in my estimation does not need to be  
20 put on the record.

21 The matter of the potential plea of Mr. Delvecchio  
22 is put off until Friday morning at ten o'clock.

23 MR. GALLINA: Thank you.

24 MR. CURRAN: Thank you.

25 (Recess.)

(In open court.)

THE COURT: Mr. Rosenberg, do you want to start without the witness present?

MR. ROSENBERG: If your Honor please, I have two additional reasons why I ask the Court to reconsider its ruling. Number one, I had represented Vincent Papa at the time of that arrest, so seeing as he was present at that time, and although he is named as a co-conspirator in this case, I feel that by virtue of that and that alone I would have standing.

Another reason I am offering, sir, is I think the introduction of \$1,000,000 itself would be so prejudicial to my client that I am asking for standing to cross-examine in this area.

THE COURT: As of right now, Mr. Rosenberg, the application is denied. I may change my mind.

MR. ROSENBERG: All right. I take exception to the Court's ruling. Thank you.

MR. ELLIS: I assume, your Honor, that the ruling applies to all defendants.

THE COURT: Sure.

MR. SALKO: Your Honor, I am Matthew Salko. I represent the defendant Dominick Lessa. If your Honor please, I arrived when the examination by Mr. Phillips



1 started. Rather than interrupt that examination and cross-  
2 examination I sat in court. I ask the Court's permission --  
3 I would like to join in this application and participate in  
4 this motion to suppress. Your Honor will recall a few days  
5 ago I made a motion to sever on behalf of Mr. Lessa, and I  
6 cited specifically that the introduction of the evidence,  
7 which is the subject matter of this proceeding, would be  
8 so prejudicial to the defendant Lessa that he is entitled  
9 to a severance, and as a result I respectfully request your  
10 Honor's permission to participate in this motion.  
11

12 THE COURT: All right, the same ruling.

13 MR. STOTSENBURG: If your Honor please, my name  
14 is Alan Stotsenburg. I represent Elizabeth Jane Salvani,  
15 and I would request leave to join in this application on  
16 her behalf, for a further reason, to the extent that I get  
17 any information at all from the United States Attorney,  
18 there is some indication that there may be some testimony  
19 that this Mrs. Salvani was given money, which money may be  
20 some of this money, for which reason I believe that  
21 Mrs. Salvani has standing, and I may on her behalf cross-  
22 examine, and I ask leave to cross-examine at this time.

23 THE COURT: You are claiming that she was in  
24 possession of this money?

25 MR. STOTSENBURG: I just refer your Honor to the

1 case of Jones v. United States in which Mr. Justice  
2  
3 Frankfurter pointed out, in quoting Judge Learned Hand,  
4 that a defendant is placed in the horns of a very uncomfort  
5 able position that he has to say, "Gee, I had an interest  
6 in that" even though he may have had none whatsoever.

7 I think when the evidence eventually comes out  
8 it will be clear that this is the most far-fetched charge  
9 that I think has probably been had in this court in many  
10 years. I do not think Mrs. Slavani has any connection at  
11 all, but as her attorney I have an obligation to make that  
12 point.

13 THE COURT: There is a difference, counsellor.  
14 If you are making the same motion that Mr. Rosenberg did and  
15 Mr. Salvo did, they say they believe that the receipt in  
16 evidence of this money would prejudice their defendants --

17 MR. STOTSENBERG: I join in that.

18 THE COURT: You join in that. My question is,  
19 do you go further--

20 MR. STOTSENBERG: Yes.

21 THE COURT: -- and represent that -- is it  
22 Mary Jane Salvani?

23 MR. STOTSENBERG: Mrs. Mary Jane Salvani --  
24 there may be testimony that she received moneys from this  
25 or was to receive moneys from this source, therefore she



mkd4

may have some accessory interest in suppressing a proprietary interest. As your Honor knows, I know nothing about this except there is nothing in the indictment except her name, but I would be remiss if I did not try.

MR. LOPEZ: If your Honor please, may I say something in connection with this application?

THE COURT: Let me handle this one at a time, please.

MR. LOPEZ: Yes, your Honor.

THE COURT: I will deny it, Mr. Stotsenburg, although I may change my mind.

MR. STOTSENBURG: Thank you, your Honor.

THE COURT: All right, Mr. Lopez.

MR. LOPEZ: Your Honor, the only problem that I have had in discussing this matter with other attorneys is this. Dinapoli is mentioned in Count 21 of the indictment. So far as Count 21 of the indictment is concerned, it does not involve any December 1971 matter in any dealing with February 3, 1972, so that this million dollars is offered as proof of the conspiracy count, so far as the indictment is concerned.

Let us assume -- hopefully not, but let us assume that your Honor permits the government to use this million dollars in evidence at the trial, and the jury comes

mkd5

back and says, "Your Honor, may we consider the inference which the million dollars may raise against all other defendants that were joined in the conspiracy?"

What will defense counsel be asking themselves? We were not permitted to join in the motion to suppress as it affected our client. Can Judge Duffy now charge this jury to consider the million dollars as an inference? That is the point.

THE COURT: I understand, Mr. Lopez. I understood that to be the argument that your co-counsel were making. In fact, there are two subsidiary arguments that they are also making.

MR. ELLIS: Your Honor, I understand your previous ruling that all defendants come under the umbrella of all motions.

THE COURT: Yes.

MR. ELLIS: To include this motion, so we are making a motion, but if I further understand you are now saying that although it is our motion we do not have a right to cross-examine on this.

THE COURT: No, I do not think it is quite that. Very well. I will stay with my ruling.

Mr. Lopez, do you have any further questions?

MR. LOPEZ: Yes, just a few more questions --



I will be brief so far as Officer Reilly is concerned.

May I continue, your Honor?

THE COURT: Yes.

CROSS-EXAMINATION CONTINUED

BY MR. LOPEZ:

Q Officer Reilly, on February 3, 1972, did you keep a memo book?

A Yes, I believe we did.

Q Did you make any entries in connection with that?

A We did not make any entries in memo books per se. I did it on Federal form.

Q Do you have any of those Federal forms here?

A I don't.

Q Do you know if you prepared -- I think I asked you this question and you told me you did not recall -- you believed Detective Spurdis prepared it.

A That is the detailed reports -- he did prepare them.

Q Fine. As I understood it, so far as your conversations with Officer Pallatroni are concerned, you had initially a conversation on the phone with Officer Pallatroni when you saw Papa and the unidentified male go into 1908 Bronxdale Avenue with the suitcase, is that correct -- originally?

1 A That is correct.

2 Q Then Pallatroni arrives on the scene and  
3 Detective Spurdis speaks with him?  
4

5 A Yes.

6 Q So the only other conversation that you had  
7 with Mr. Pallatroni was when he told you to stop the  
8 vehicle on the phone while you were following the Papa-  
9 Dinapoli car, is that correct?

10 THE COURT: You mean on the radio?

11 Q Yes, on the radio.

12 A In the meantime we were keeping Special Agent  
13 Pallatroni apprised of people that were leaving 1908  
14 Bronxdale Avenue and then returning to 1908 Bronxdale  
15 Avenue.

16 Q But your conversations were in connection with  
17 people that were going in and going out, is that correct?

18 A That is right.

19 Q Did you know any of the people going in and out  
20 of 1908 Bronxdale Avenue?

21 A I did not.

22 Q You did not know if there was an affair going  
23 on at 1908 Bronxdale Avenue, did you, at that time?

24 A No, I did not.

25 Q Did you know if anyone was sick in the house



on February 3rd, 1972.

A I did not.

Q Did you subsequently learn that there were children in the house -- in the house?

A Yes.

Q Did you learn that there was an attorney in the house that night who left about the time that you had the house under surveillance, after 8:00 p.m.?

A Yes, we did.

Q Was this attorney, when he left the house, carrying a briefcase or an attache case?

A I don't recall that.

Q You did not see that?

A No.

Q And you made no report of that?

A No.

Q Now the last conversation that you had with Officer Pallatroni before the Papa automobile was stopped was on the radio car, is that correct?

A Yes.

Q Did you call him or did he call you?

A He called us.

Q And at that time did he tell you "effect the arrest"?

1 A He said "take the car."

2 Q "Take the car." That is all?

3 A Right.

4 Q And your reply was "Okay." or words to that  
5 effect?

6 A Probably "10-4."

7 Q And that was substantially the entire conver-  
8 sation you had before the Papa-Dinapoli vehicle was halted  
9 is that correct?

10 A Yes.

11 Q Now, from the time that you testified here a  
12 while ago, when we recessed, did you have occasion to  
13 speak with Officer Pallatroni in connection with your test-  
14 mony here?

15 A We spoke in general.

16 Q Yes, but did you discuss generally what you were  
17 being asked?

18 A Yes.

19 Q You told him what you were being asked here?

20 A No, I did not.

21 Q Did you go over any details of the evidence  
22 that you were giving here?

23 A I did not.

24 Q What was your conversation with him? What did  
25



1           you ask him and what did you tell him? What was your con-  
2           versation with him?

3           A        I went in and he asked me was I finished and  
4           I said, "No," and he said, "How is it going?" and I said,  
5           "All right" -- things like that.

6           Q        But you did not specifically state any of the  
7           questions or give him any information that you have given  
8           to Judge Duffy in these proceedings, is that correct?

9           A        I don't believe so.

10          Q        You don't believe so? You don't remember?

11          A        We were speaking generally.

12          Q        I know. But when you say you don't remember,  
13          you don't remember what happened ten minutes ago, but you  
14          are very clear what happened on February 2nd --

15                   MR. PHILLIPS: Objection.

16          A        I am very clear on what happened ten minutes ago.

17          Q        So now I ask you, Officer Reilly, did you dis-  
18          cuss the details of any portion of your testimony here  
19          today with Officer Pellatroni?

20          A        The details?

21          Q        Any of the details concerning your testimony  
22          today.

23          A        He asked me how it was going and I said "All  
24          right."

1  
2 Q And that is all?

3 A Yes.

4 Q Did he ask you about \$130,000 or anything like  
5 that? He did not ask you about that?

6 A He did not ask me about that.

7 Q From the time that you asked or showed your  
8 badge to the time the Papa vehicle came to a halt, how many  
9 feet was that, approximately?

10 A 30 feet.

11 Q How fast were you going?

12 A Very slowly.

13 Q About.

14 A About ten to 15 miles an hour.

15 Q The road was very wet?

16 A Yes, it was.

17 Q And it was pouring; wasn't it?

18 A Yes.

19 MR. LOPEZ: Thank you very much. No further  
20 questions.

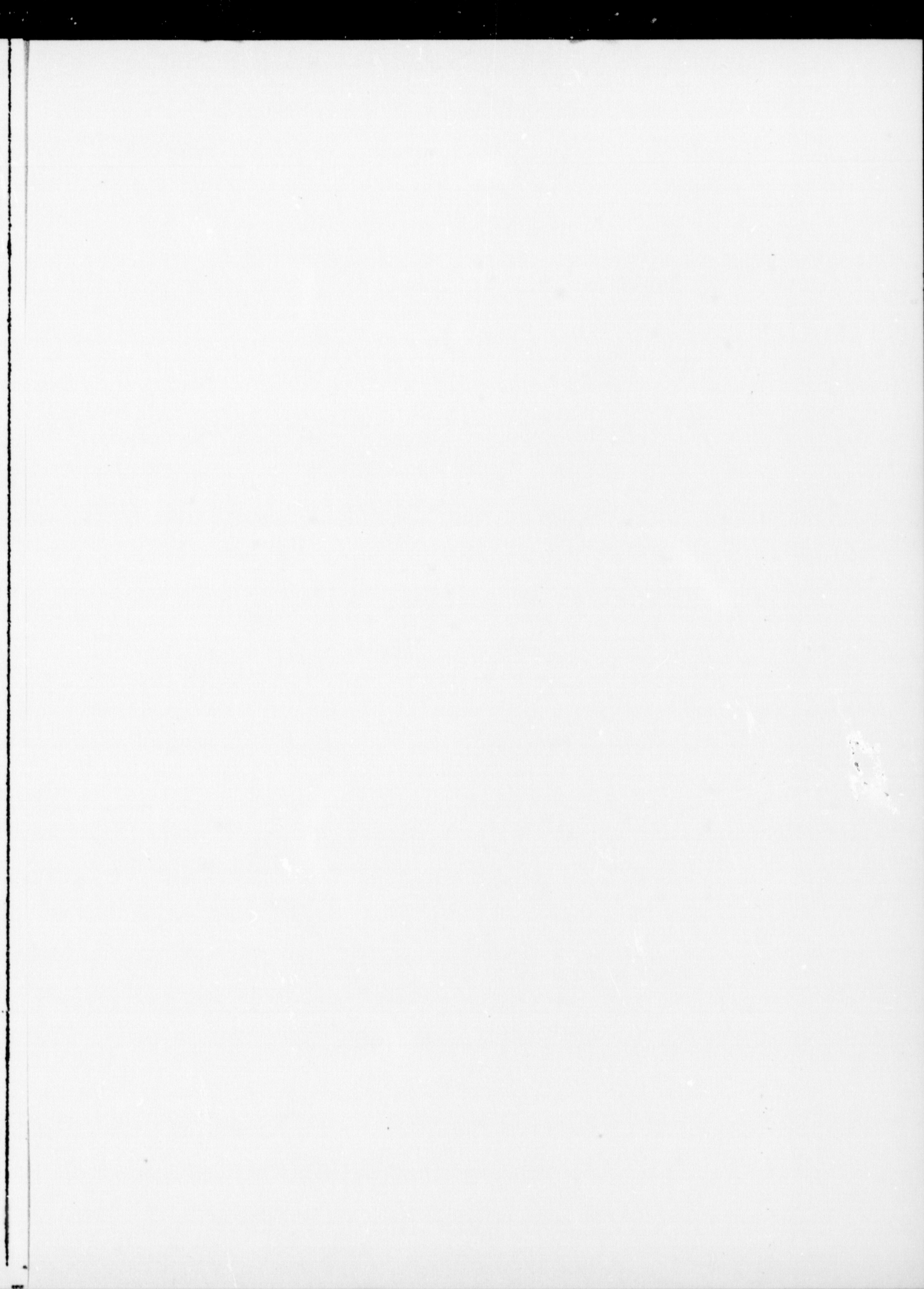
21 MR. PHILLIPS: I have just a few, your Honor.

22 REDIRECT EXAMINATION

23 BY MR. PHILLIPS:

24 Q You mentioned, Officer Reilly, that you arrested  
25 Mr. DiBenedetto?





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Reilly-redirect

1  
2 A Yes.

3 Q And that he told you he lived at 1908 Bronxdale  
4 Avenue, is that correct?

5 A Yes, sir.

6 Q Did you find out where he actually did live?

7 A Yes, sir.

8 Q Where did he actually live?

9 A It was Bayshore Drive in the Bronx, but I don't  
10 recall the house number.

11 Q Did you ascertain that prior to February 3, 197

12 A Oh, yes.

13 Q Did you mention to Pallatroni when he arrived  
14 on the scene that Papa had looked at you before entering  
15 the house?

16 A I believe that was conveyed to him by Detective  
17 Spurdis.

18 Q You mentioned on cross-examination that as soon  
19 as Papa got out of the car you placed him under arrest.  
20 Did he walk any distance before you placed him under arrest?

21 A Yes, he walked about 15 feet towards our car.  
22 He walked to our car, and he was about at my passenger door  
23 when he was placed under arrest.

24 Q So you placed him under arrest next to your car?

25 A Yes.



Q You testified on cross-examination, and also on direct examination for that matter, that the suitcase was held with two hands. Was it held with two hands the entire time that Mr. Dinapoli carried it from the house to the automobile?

A I believe it was.

Q And was it held in front of Mr. Dianpoli the entire way or to his side or both?

A To the best of my recollection it was in front of him the distance from the house to the vehicle.

Q The entire distance?

A Yes.

MR. PHILLIPS: Thank you. Nothing further.

MR. LOPEZ: Nothing further of this witness, your Honor.

MR. DOWD: Your Honor, so that we understand the objection or the request for the cross-examination made by one other defendant, it applies to every defendant -- these are the ground rules?

THE COURT: That is correct.

MR. DOWD: So that any objection made by other counsel applies to me as well?

THE COURT: Any application.

MR. DOWD: Any application -- I am sorry.

1 mkl4  
2 THE COURT: Yes.

3 MR. DOWD: So there is no need to state it.

4 THE COURT: All right, Officer Reilly, will you  
5 be around tomorrow?

6 THE WITNESS: Yes, your Honor, if you would  
7 like.

8 THE COURT: I would appreciate it. You may stop  
9 down.

10 (Witness excused.)

11 MR. PHILLIPS: The government calls Peter  
12 Pallatroni.

13 P E T E R P A L L A T R O N I, a witness called on beha  
14 of the government, after having first been duly sworn  
15 was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. PHILLIPS:

18 MR. PHILLIPS: May I proceed, your Honor?

19 THE COURT: Yes.

20 Q Mr. Pallatroni, by whom are you employed at the  
21 present time?

22 A By the Drug Enforcement Administration as a  
23 special agent.

24 Q And is the Drug Enforcement Administration the  
25 Federal agency responsible for investigating narcotics cases



1  
2 A Yes, sir, it is.

3 Q And in what capacity are you employed by that  
4 agency?

5 A I am a group supervisor.

6 Q How long have you been a group supervisor?

7 A Since February of 1970.

8 Q How long have you been employed by either the  
9 Drug Enforcement Administration or its predecessor, the  
10 Bureau of Narcotics & Dangerous Drugs?

11 A Since May 1966.

12 Q From May of 1966 to February of 1970, were you  
13 an agent?

14 A Yes, I was.

15 Q Now directing your attention to February 3, 1972,  
16 by whom -- or what was your assignment at that time?

17 A At the time I was a group supervisor assigned  
18 to the New York Joint Task Force.

19 Q Did you have agents working under your direction?

20 A I had agents, police officers and state troopers.

21 Q Approximately how many, do you recall?

22 A I believe there were, including myself, eleven  
23 men in the group.

24 Q And were your headquarters located at 201 Varick  
25 Street?

2 A Yes, sir, they were.

3 Q Directing your attention to the evening hours  
4 of February 3, 1972, were you on duty?

5 A Yes, sir, I was.

6 Q And did you give any directions to any of the  
7 individuals in your group on that evening?

8 A Yes, sir, I did.

9 Q Will you tell us what you told and to whom you  
10 told it?

11 A At approximately 6:30 p.m. on February 3rd --  
12 THE COURT: Can we restrict this --  
13 Well, go ahead.

14 A (Continuing) I instructed Detective John  
15 Spurdis and Patrolman George Reilly to proceed to the area  
16 of the Cottage Inn and attempt to identify an individual in  
17 an investigation that we only knew as John Doe No. 3.

18 I also instructed other officers assigned to  
19 my group to go to another part of the Bronx, in the vicinity  
20 of --

21 MR. LOPEZ: Objection as to that, your Honor.

22 THE COURT: The only officers that we are  
23 interested in are those who were at 1908 Bronxdale Avenue  
24 or eventually at Tremont Avenue and Castle Hill Road.

25 If you directed officers to some other location we don't care



about that. That is what I was afraid of before.

Q Before you go further-- withdrawn.

Agent Pallatroni -- what is your correct title?

A Agent.

Q Agent Pallatroni, could you tell us what information you had regarding John Doe No. 3 as of February 3, 1972?

A That he was --

MR. LOPEZ: Objection, your Honor.

THE COURT: I will allow it.

A (Continuing) That he was a whitemale, approximately 35, 36 years old and approximately 185 pounds, approximately six feet tall, and that he had gray hair.

Q And what information did you have in connection with your investigation?

A This male was observed in the Cottage Inn Bar on, I believe, the evening of September 2nd, 1971 in conversation with Frank Facchiano. Facchiano said to John Doe No. 3, "I'll need another eighth."

They then went into the back room of the Cottage Inn Bar.

Shortly after they both exited the bar and re-entered almost immediately. Facchiano was carrying a brown paper bag which he handed to John Doe No. 3. As

John Doe No. 3 opened it he said, "Is it all there?" They then went into the back room again. Detective Spurdie overheard what he believed to be the crumpling of paper.

Q Had Detective Spurdie also conveyed to you the information that you just testified about?

A Yes, he did.

Q Was Facchiano arrested on September 2, 1971?

A No, sir, he wasn't. We arrested an individual by the name of James Kersey after Kersey received an eighth kilogram of heroin from Frank Facchiano.

Q And did you arrest Kersey on September 2, 1971?

A YES, we did.

Q Was that after the transaction that Facchiano had with John Doe No. 3?

A Yes, sir, it was.

Q And on Kersey's possession was there found one-eighth of a kilogram of heroin?

A Yes, there was.

Q For the record, Agent Pellatroni, was Facchiano arrested at a subsequent time?

MR. LOPEZ: Objection, your Honor, no bearing on this -- even remotely. We are talking about September 1971 and the events of February 2, 1972.

THE COURT: No, I think Mr. Phillips can complete



the record without loose ends. This is something which is not going to affect my judgment.

You may answer.

(Question read by the reporter.)

A Frank Facchiano was arrested in January of 1972.

Q Now, did you yourself leave 201 Varick Street on the evening of February 3, 1972?

A Yes, sir, I did.

Q And where did you go?

A I proceeded to the Borough of the Bronx. I was in the vicinity of Boston Road and White Plains Road.

Q And at some time that evening did you receive a radio call from either Detective Spurdis or Police Officer Reilly?

A At approximately 8:45 that evening I received a radio message from Patrolman George Reilly. He stated that he and Detective Spurdis were on surveillance at 1908 Bronxdale Avenue; that they had observed a car pull up and a man enter that residence carrying a suitcase. The car made a U-turn; parked. Another gentleman exited the vehicle and went into 1908 Bronxdale Avenue.

Officer Reilly told me that the second individual was the old man, VIP. I then proceeded to that area,--

Q Did he further identify him at that time?

1 A No, not during the radio message.

2 Q Did you then go to the vicinity of 1908  
3 Bronxdale Avenue?

4 A Yes, I did.

5 Q Now did you have any information regarding  
6 1908 Bronxdale Avenue prior to that time?

7 A Yes. We had some information regarding 1908  
8 Bronxdale Avenue.

9 Q Specifically, were you aware of or had you  
10 investigated a person or an individual by the name of  
11 Butch Mamone?

12 A Yes, sir. He was involved in this investigation.  
13 He was one of the individuals that met Frank Facchiano at  
14 the Cottage Inn, where Facchiano met a number of other  
15 individuals. One of those people --

16 MR. LOPEZ: I'm going to object to this, your  
17 Honor. I do not see it's relevancy so far as the suppression  
18 hearing is concerned.

19 THE COURT: I do not see it yet myself, but I  
20 assure you, Mr. Lopez, I have greater facility for striking  
21 the testimony from my mind than you might guess.

22 MR. LOPEZ: I thank you.

23 THE COURT: All right, go ahead.

24 Q Proceed.



1 A (Continuing) One of those people was utilizing  
2 a car that was registered to Genevieve Patalano at  
3 1908 Bronxdale Avenue.  
4

5 Some time during the fall of 1971 we arrested--  
6 officers of the Task Force arrested Joseph DeBenedetto in  
7 possession of a stolen vehicle after he exited 1908 Bronxdale  
8 Avenue. At that time he gave his address as 1908 Bronxdale  
9 Avenue.

10 Q And was it ascertained that he lived somewhere  
11 else other than at 1908 Bronxdale Avenue?

12 A Yes, sir, it was.

13 Q And did you know that as of February 3, 1972?

14 A Yes, sir, we did.

15 Q Now, had an individual by the name of -- with-  
16 drawn.

17 Had any other automobile, to your knowledge,  
18 been observed in front of 1908 Bronxdale Avenue prior to  
19 February 3, 1972?

20 A To the best of my recollection the vehicle  
21 registered to Joseph Dinapoli was observed by Detective  
22 Spurdis parked there in the vicinity of 1908 Bronxdale  
23 Avenue.

24 Q Was there any other automobile, to your knowledge  
25 observed in front of 1908 Bronxdale Avenue prior to

February 3, 1972?

A No, sir, not that I can recall.

Q Well, let me refresh your recollection

any automobile registered to Butch -- ever observed in  
front of 1500 Broadway

A Not that --

MR. LOPEZ: I'm going to object to that, your  
Honor.

THE COURT: I will permit it.

A (Continuing) Not that I can recall.

Tk5pm

fol1.



Q Was Mr. Facchiano's automobile ever seen in front of 1908 Bronxdale Avenue?

A No, sir.

Q When you arrived at 1908 Bronxdale Avenue what occurred?

A I arrived at 1908 Bronxdale Avenue and had a conversation with Detective John Spurdis on the street corner.

Detective Spurdis related the following, that at approximately 8:45 a vehicle parked in front of 1908 Bronxdale Avenue. A white male got out carrying a suitcase and went into the house.

The car executed a U turn and parked on the opposite side of the street and Vincent Papa exited the vehicle, walked across the street.

As he was walking across the street he looked directly into the windshield of the government vehicle and then entered 1908 Bronxdale Avenue.

Q Had you ever heard of Vincent Papa before that evening?

A Yes, sir, Vincent Papa was well-known to me.

Q Would you tell us how he was well-known, in what respect, as of that evening?

A I knew that Vincent Papa had a criminal record

1  
2 dating back to 1938, that in the mid-50s he had been ar-  
3 rested by the Federal Bureau of Narcotics for violation  
4 of the Federal Narcotic Laws, for which he was convicted.

5 Q Did you know at that time-- I'm talking now about  
6 February 3, 1972 -- what sentence he had received?

7 A To the best of my recollection, I thought he had  
8 received a five-year sentence.

9 Q Did you know anything about the facts of the  
10 case for which he was convicted?

11 A Yes. If I recall correctly, Vincent Papa at  
12 that time was arrested in possession of either five kilos  
13 or five pounds of pure heroin.

14 I also knew that during the 50s Mr. Papa was as-  
15 sociated with Victor Panica and Anthony Passero, both of  
16 whom were convicted narcotic violators.

17 Q Did you know anything further as of February 3,  
18 1972 regarding Victor Panica?

19 A Yes, that approximately during the middle of  
20 January 1972 Victor Panica was arrested by agents of the  
21 Bureau of Narcotics and Dangerous Drugs in possession of  
22 approximately 40 kilograms of pure heroin.

23 MR. LOPEZ: Your Honor, I am going to object  
24 and move to strike this. I don't know what it has to do --

25 THE COURT: What Victor Panica's arrest has to





do with it I don't know either.

All right, Mr. Lopez. Your motion to strike is granted.

MR. PHILLIPS: Your Honor, I would like to be heard with respect to an offer of proof on this.

The question of probable cause for Papa's arrest that evening, which was directed by Mr. Pallatroni, depends not only on what occurred that evening, what was communicated that occurred that evening to Pallatroni, but his knowledge of Papa is particularly important to the facts and to the issue of probable cause as to his arrest.

The fact that Papa was a major narcotics violator, what occurred that evening, what information Mr. Pallatroni had to support his knowledge that Papa was a major narcotics violator, and that he was involved in a narcotics transaction on this particular evening, is relevant on the question of probable cause for Papa's arrest, and the fact that Papa was an associate of Panica -

THE COURT: When did you say that you knew that Papa was associated with Panica?

THE WITNESS: Their association, as far as I knew, your Honor, went back to the 1950s.

THE COURT: Did you have any knowledge whether



the association continued after the 1950s?

THE WITNESS: No direct knowledge, your Honor.

THE COURT: Just before the motion to strike would you read back the last question and answer.

(Record read.)

MR. LOPEZ: May I add to my objection now, your Honor?

THE COURT: You are winning, Mr. Lopez.

MR. LOPEZ: I'm sorry. Then I will remain silent, Judge.

THE COURT: My ruling on the motion to strike remains.

MR. PHILLIPS: Your Honor, I don't want to belabor this point, but there are going to be other instances where I'm going to ask Pallatroni matters which are similar to this.

It seems to me that we are not dealing here with a jury, where the jury has to decide what is relevant and what is not relevant.

I think that your Honor certainly can make that determination after hearing all of it and determining whether or not there was probable cause.

THE COURT: I will take them one at a time.

BY MR. PHILLIPS:

Q On December 13, 1971, to go back a minute, Agent Pallatroni, did you arrest or participate in the arrest of one Stanton Garland?

A Yes, sir, I did.

Q After Mr. Garland was arrested did he agree to cooperate with you?

A Yes, sir, he did.

Q What if anything did Mr. Garland tell you after he agreed to cooperate?

MR. LOPEZ: Objection, your Honor.

THE COURT: No.

A Mr. Garland told us that he would be able to introduce an agent, if the government was willing to spend \$25,000 at least, to Rocco Evangelista and Danny -- Daniel Ranieri. At the time he just identified him as Danny.

He stated that both these individuals distributed narcotics for --

MR. LOPEZ: Objection again, your Honor.

THE COURT: I will let it come in. Go ahead.

A Mr. Garland told us that both Ranieri and Evangelista were distributing narcotics for Vincent Papa.

On one occasion we showed Mr. Garland 16 photographs of various white males. He identified two of the



photographs as being Rocco Evangelista, two of the photographs as being Daniel Ranieri and two of the photographs being Vincent Papa.

He also advised me that he had once met Vincent Papa in Las Vegas and that they had a conversation relative to the trafficking of narcotics.

He also mentioned that at one time he met Vincent Papa at Prudenti's Restaurant and that they also at this point had a conversation relative to trafficking in narcotics.

Q You mentioned he identified six photographs. Were they in fact the individuals that he said they were?

A Yes, sir, they were.

Q Did you check any of the information out that Mr. Garland gave to you?

A Yes, sir, we did. We learned from Mr. Garland where Rocco Evangelista lived.

As a result of this I did some more checking and at this time I determined that there was a sealed indictment in the Eastern District of New York against Vincent Papa and approximately twenty other defendants for conspiracy to violate the Federal Narcotic Laws.

These people were arrested prior to the end of

January 1972.

Q In other words, the indictment was unsealed subsequent to the time that Garland gave you the information but prior to February 3, 1972?

A That's correct, Mr. Phillips.

Q Did Mr. Garland give you a telephone number of this person Evangelista?

A Yes, sir, he did.

Q Did you check it out to see if it was accurate?

A Yes, sir, it was.

Q Where, to your knowledge, was Vincent Papa living on February 3, 1972?

A Astoria, Queens.

Q Were you informed by Detective Spurdis who was driving the automobile, the green Pontiac, that had pulled up?

A Yes, sir, I was.

Q Who?

A Vincent Papa.

Q Did you have any information at that time as to whether or not Papa owned an automobile?

A Yes, we had information that Papa owned two automobiles. One of them was a Mercedes.

Q Was the green Pontiac there when you arrived?



2 A Yes, sir, it was.

3 Q Did you check the license plate?

4 A Yes, sir, we did.

5 Q Did you check it out?

6 A Yes, sir.

7 Q How did you do that?

8 A Via two-way radio I communicated with our base  
9 station and requested that they check with Albany as to  
10 who the car was listed to.  
11

12 Shortly after we obtained the reply that it  
13 was listed to I believe the Wide World Leasing Company in  
14 Far Rockaway, Queens.

15 Q In other words, it was a leased car, is that cor-  
16 rect?

17 A Yes, sir.

18 THE COURT: No, it was just registered to a  
19 leasing company.

20 Q At that time, Agent Pallatroni, did you attach  
21 any significance to the fact that this automobile came  
22 back registered to a leasing company in Queens?

23 MR. LOPEZ: Objection, your Honor.

24 THE COURT: No, I will permit it.

25 A Yes, sir. As a narcotic investigator I attached  
quite a bit of significance to that fact.

During my years on the job I have learned that many individuals in narcotics and other areas of organized crime use leased cars in order to conceal their identity. It makes it much more difficult for law enforcement agents or agencies to identify the driver of the said vehicle. And many of these people are also aware that if contraband is transported in a leased car the company will get it back, whereas if they use their own personal vehicles and contraband is transported or concealed in said car it will be seized by the government.

Q Is that the law and was it the law at that time?

A Yes, sir, it still is.

MR. LOPEZ: Was it the what? Was it the law? What law are we talking about? I lost this.

THE COURT: We are talking about the seizure of a vehicle in which contraband is found.

MR. LOPEZ: That was the law? I have never seen that law, Judge.

THE COURT: It is buried some place in the Admiralty Law.

MR. LOPEZ: I see.

Q Agent Pallatroni, how many cases of major narcotics violators had you investigated as of February 3, 1972?

A That would be hard to say, sir, but I would say I



had been involved in at least 50 substantial -- 100 substantial investigations at that time.

Q When you say "substantial investigations, could you tell us what you mean?

A Well, individuals that deal in rather -- in wholesale quantities of heroin and cocaine.

Q Did you conduct surveillance during your career prior to this time?

A Yes, sir, I had, on many occasions.

Q How many times?

A Hundreds upon hundreds.

Q And had you conducted surveillance of what you would describe as major narcotics dealers?

A Yes, sir, I have.

Q Had you ever made any arrests of what you would describe as major narcotics dealers prior to this time?

A Yes, sir, I had.

Q Approximately how many?

A Involving at least the arrest of a couple hundred individuals.

Q After you arrived at 1908 Bronxdale Avenue -- what time did you arrive, incidentally?

A Shortly after 8:45 p.m.

Q What did you do after you arrived?

1 A Well, I immediately, as I stated before, con-  
ferred with Detective Spurdis.

2 Q What did you do after that?

3 A He went back to his vehicle and I sat in my ve-  
4 hicle along with Special Agent Reed and kept 1908 Bronxdal-  
5 Avenue under observation.

6 Q Where were you in relation to 1908 Bronxdale  
7 Avenue?

8 A I don't remember the side street, but the cross  
9 street. I could look right at the front door of 1908  
10 Bronxdale Avenue.

11 Q And what did you observe while you were there?

12 A Shortly after I arrived three white females came  
13 out of the building, entered a car and departed, and I  
14 think it was in the vicinity of 9:00 o'clock I observed  
15 one white male exit 1908 Bronxdale Avenue and enter a  
16 car that I couldn't see. It was parked on the opposite  
17 side of the street. It executed a U turn and I followed  
18 the car in order to obtain the license plate.

19 The car proceeded south on Bronxdale Avenue to  
20 Fordham Road, where it made a left turn and went west  
21 and immediately entered the Bronx River Parkway southbound.

22 I followed the car southbound on the Bronx River  
23 Parkway, where it exited at the Cross Bronx Expressway.



There is a loop there. The driver of the car then went around this loop and went back onto the Bronx River Parkway northbound.

At this point I realized I had been taken in a complete circle and it was a typical move to draw the heat away from the area and I immediately proceeded back to 1908 Bronxdale Avenue.

Q In light of your experience, could you describe that phrase that you just used, "to take the heat away"?

A Well, in my years on the job I have seen when a transaction is going to take place a lead car will go out and if there is any police officers there chances are that car would be followed by the police officers that are on surveillance there.

Q In other words, it is to take whatever surveillance officers might be there away from the area, is that correct?

A Yes, sir.

Q What did you do then?

A I proceeded back to 1908 Bronxdale Avenue. And shortly after this I believe they were the same three women came back to the house and went into the house.

At about 9:25 p.m. two men came out of 1908 Bronxdale Avenue, entered separate vehicles and left.

I tried to get the license plate but was unable to and I parked in the vicinity of a Carvel Ice Cream Store.

Q You followed the two automobiles?

A No. I went up the street and they were too far gone. So I just parked in the vicinity of a Carvel Ice Cream Shop.

Q How far away was that from 1908 Bronxdale Avenue?

A I think it was less than a block.

Q What happened after that?

A At about 9:30 I received a call on the radio from Patrolman George Reilly. He stated that both men were out of the house, Vinnie Papa was carrying the suitcase with two hands, it was loaded.

Q Were those the words that he used, to your recollection?

A To the best of my recollection, "It is loaded, and he is carrying it with two hands" or "He is carrying it with two hands and it is loaded."

I can't recall which came first from that radio message.

Q What did you do then?

A Well, they told me the car was moving. So I proceeded south on Bronxdale Avenue. I came around the



corner and I believe I got behind the car as it went south across Morris Park Avenue. We just proceeded south on Bronxdale.

At one point Detective Spurdis took the position of the lead car. When we arrived at Bronxdale and East Tremont the 1968 Pontiac made a left turn. It would have been proceeding east on Tremont Avenue.

At this point I instructed Detective Spurdis to cut the car off.

Q Did you do that by radio?

A By radio, yes, sir, everything by radio.

Detective Spurdis angled his car in front of the car being driven by Mr. Papa. I observed Patrolman Reilly sticking his hand out the window. It appeared to me that he had his badge --

MR. LOPEZ: Objection as to what appeared to him.

A He was sticking his hand out the window to stop the car. The car kept creeping up and finally it came to a halt maybe eight or ten feet. It wasn't very far.

I parked directly behind the 1968 Pontiac. At this point Mr. Papa exited the car and walked towards the car being used by Detective Spurdis and Patrolman Reilly.

I jumped out of the car that I was using and

observed Vincent Papa and said, "Take him, John."

I went around to the passenger side of the car and opened the door and along with Special Agent Reed arrested Joseph Di Napoli.

I placed Joseph Di Napoli over a retaining wall of St. Raymond's Church and searched him for weapons. We didn't find any.

I instructed Agent Reed to secure him or handcuff him.

At this point I turned around and walked back to the Pontiac. I observed Detective Spurdis had the suitcase out on the street and it was open.

I said, "What do we have, John"?

He said, "Money."

I said, "Any junk"?

At this point I was over the suitcase. We looked into the suitcase and it was all money. I closed the suitcase again and took custody of it.

Q Let me ask you, Agent Pallatroni, did you attach any significance to the fact that Papa got out of the automobile and walked towards Spurdis' and Reilly's car?

A I thought it was a very sharp move on the part of Mr. Papa.

Q Could you explain what you mean by that?



1  
2 A Well, as most people are aware, when a police  
3 officer stops a car most people sit in the car and wait  
4 for the police officer to go to the car, ask for a license  
5 or whatever business there is to conduct.

6  
7 However, in this case when I saw that I felt  
8 that Mr. Papa didn't want us near that car.

9 Q I show you what has been marked as Government  
10 Exhibit 1 for identification.

11 Would you tell me if you are able to identify  
12 that suitcase.

13 A Yes, sir, I can.

14 Q What is it?

15 A This suitcase at one time contained \$967,450,  
16 which we seized that evening from the 1968 Pontiac that  
17 was utilized by Vincent Papa and Joseph Di Napoli.

18 Q You say that is the same suitcase?

19 A Yes, sir, it is.

20 Q Did you have occasion to hold that in your hand  
21 with the money that was found in it?

22 A Yes, sir, I did.

23 Q Can you estimate approximately what you believe  
24 to have been its weight?

25 A I believe it weighed somewhere between 40 and 50  
pounds.

1  
2 MR. PHILLIPS: I have nothing further at this  
3 time, your Honor, although we do offer the suitcase.

4 I omitted to do that when Police Officer Reilly  
5 was on the stand.

6 BY MR. PHILLIPS:

7 Q Agent Pallatroni, did either Spurdie or Reilly  
8 give you a description of the other individual that had  
9 arrived at 1908 Bronxdale Avenue that evening when you ar  
10 rived there?

11 A They said he was a white male, approximately six  
12 foot, medium build. That was about it, sir.

13 Q What was the description, again, if you will,  
14 of this John Doe No. 3 that you mentioned earlier in your  
15 testimony?

16 A He was a white male, approximately six foot, 35,  
17 36 years old, 185, 190 pounds, with white hair.

18 Q The first description of the individual, was it  
19 given to you by either Reilly or Spurdie when you arrived  
20 at 1908 Bronxdale Avenue?

21 A I believe it was given to me by -- a general  
22 description-- by Detective Spurdie.

23 MR. PHILLIPS: I have nothing further, your  
24 Honor.

25 THE COURT: Mr. Lopez, how long do you expect to



be?

MR. LOPEZ: About two weeks, but I will try to bring it down to about an hour or two, your Honor.

Your Honor, I was going to ask that it be continued until tomorrow, so perhaps I can get the transcript.

The only thing I would ask is if the government could furnish me the information in connection with the officer's testimony regarding the ownership of the car that took the heat off, so that if it is the person that I think it is I can bring him in as a witness.

THE COURT: I don't even know if they know who it is.

MR. LOPEZ: We can ask the agent.

MR. PHILLIPS: I will ask Agent Pallatroni.

BY MR. PHILLIPS:

Q Did you ascertain, Agent Pallatroni, who the owner of that car was?

A Yes, sir, the following day. Unfortunately, the computer in Albany was broken at that part of the evening. It was registered to Murray Richman.

Q Who is Murray Richman?

THE COURT: Don't go any further. I think that is sufficient for you, Mr. Lopez.

MR. LOPEZ: Yes, it is, your Honor.

I would ask a continuance until tomorrow at a time suitable to your Honor.

I will have those witnesses available.

THE COURT: All right.

You fellows know the ground rules anyway. I sit until 4:30. We start at 10:00 o'clock. Gentlemen, when I say 10:00 o'clock -- today, of course, was an exception, because we have a minor blizzard -- I mean 10:00 o'clock.

MR. LOPEZ: May Detective Spurdis or Officer Spurdis be told to be here tomorrow? He is outside. May he be called in and asked --

THE COURT: I don't know where he is.

MR. LOPEZ: He is outside, your Honor.

THE COURT: I gather he is your witness?

MR. LOPEZ: Yes, your Honor.

THE COURT: You tell him.

MR. LOPEZ: Fine, your Honor.

THE COURT: By the way, Mr. Lopez, are you objecting to the offer in evidence of the green suitcase?

MR. LOPEZ: No. I am joining in its offer.

THE COURT: All right. It is received in evidence.

MR. LOPEZ: For the purpose of the hearing, your Honor.



(Government's Exhibit 1 received in evidence.)

THE COURT: All right, gentlemen. 10:00 o'clock tomorrow.

MR. STOTSENBERG: Your Honor, did you indicate that other motions are to come right after that tomorrow?

THE COURT: I didn't make any indication about that.

MR. STOTSENBERG: Because we are going to have another motion to suppress we are going to have to get to too and I was just hoping in the interest of expediency that you could direct the United States Attorney to produce those witnesses that would be relevant.

THE COURT: There are a couple of motions to suppress. Let me take a look at them.

MR. STOTSENBERG: I wrote your Honor a letter on particulars. I don't see how we can -

THE COURT: This doesn't have to be on the record.

MR. STOTSENBERG: I did want to at least show on the record that I am concerned.

THE COURT: All right, fine.

MR. STOTSENBERG: I am at the Court's beck and call.

THE COURT: Yes. As soon as I get to it you will get called.

MR. STOTSENBURG: Thank you, sir.

(Adjourned to 10:00 a.m., January 10, 1974.)

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